Ordinance No. 123331

Council Bill No. 116799

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into an Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

CF No. _____

Date Introduced: 3.1.10		
Date 1st Referred:	To: (committee) Parks + Sea Center	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: 6.21.10	Full Council Vote: 9-0	
Date Presented to Mayor: 6.21.10	Date Approved: 6/28/10	
Date Returned to City Clerk: 6/28/10	Date Published:	T.O. ✓ F.T. ___
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Sg Bagshaw
Councilmember

Committee Action:

6/3/10 Held ~~Recommended~~

6/17/10 Passed 2-0 (SB, BH)

6.21.10 Passed 9-0

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

Law Department

Law Dept. Review	OMP Review	City Clerk Review	Electronic Copy Loaded	Indexed

Isabel Hamilton
DPR Magnuson SCSU Agreement ORD
8/07/09
Version #1

ORDINANCE 123331

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into an Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

WHEREAS, in 2008, the City Council authorized the initial agreement with Seattle Court Sports Unlimited, Inc. (SCSU) to develop a tennis facility at Warren G. Magnuson Park by adopting Ordinance 122754; and

WHEREAS, the initial agreement included renovating Building 41 as a clubhouse for the tennis center; and

WHEREAS, further consultant reviews and structural analysis determined that it would cost more to renovate the building than to demolish and build a new facility; and

WHEREAS, a new facility would be better equipped to support the tennis courts and provide more space for public benefits; and

WHEREAS, a new facility will follow all applicable federal, state and local historic requirements; and

WHEREAS, while the initial lease specifically described building renovation, the Amended and Restated Concession Agreement allows SCSU to demolish Building 41 and build a new structure; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Superintendent of Parks and Recreation ("Superintendent") is authorized to execute, for and on behalf of the City of Seattle ("City"), an Amended and Restated Concession Agreement with Seattle Court Sports Unlimited, Inc., in substantially the form attached hereto as Attachment 1, or with such minor additions, modifications, or deletions as the Mayor or the Superintendent deems to be in the best interest of the City.

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Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 21ST day of June, 2010, and signed by me in open session in authentication of its passage this

21ST day of June, 2010.

President _____ of the City Council

Approved by me this 28th day of June, 2010.

Michael McGinn, Mayor

Filed by me this 28th day of June, 2010.

City Clerk

(Seal)

Attachment 1: Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

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AMENDED AND RESTATED CONCESSION AGREEMENT
Between
THE CITY OF SEATTLE
Department of Parks and Recreation
And
SEATTLE COURT SPORTS UNLIMITED, INC.

THIS AMENDED AND RESTATED CONCESSION AGREEMENT is made and entered into as of the last date set forth below by and between **THE CITY OF SEATTLE** ("the City"), a first class city of the State of Washington, acting by and through its Superintendent of Parks and Recreation ("Superintendent"), and **SEATTLE COURT SPORTS UNLIMITED, INC.** ("Concessionaire"), a Washington corporation.

RECITALS

A. Whereas, the Seattle Department of Parks and Recreation ("DPR") has jurisdiction over and manages certain land formerly known as US Naval Air Station Sand Point/Magnuson Park ("Magnuson Park"), and deeded to the City by quitclaim deed recorded on May 4, 1999, in the records of King County at Recording Number 9905041194 (the "USA Deed"); and

B. Whereas, Recreation Use Covenant No. 3 of the USA Deed provides that the property "shall not be sold, leased, assigned or otherwise disposed of except to another eligible governmental agency . . . However, nothing in this provision shall preclude the [City] from providing recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior;" and

C. Whereas, the City and Concessionaire desire to provide a participant tennis facility as more specifically described below on a portion of Magnuson Park for the use and benefit of the general public; and

D. Whereas, the City is satisfied that provision of these additional services and facilities at Magnuson Park is in the City's best interest; and

E. Whereas, the Secretary of Interior's delegated representative at the National Park Service has concurred in writing with the issuance of this Agreement.

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AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained herein, the City and Concessionaire covenant and agree as follows:

1. Concession Agreement Data; Exhibits. The following terms have the following meanings, except as otherwise specifically modified in this Concession Agreement ("Agreement"):

1.1 Premises. Premises means the portion of the land depicted on Exhibit A hereto, and consisting of approximately 79,581square feet, together with the building located thereon containing 2,083 square feet, more or less, and commonly known as Magnuson Park Building 41 (the "Building"). The street address of the Premises is 6327 NE 74th Street, Seattle, WA 98105

The Premises are situated on a portion of the real property legally described on Exhibit B.

1.2 Effective Date. The date when the Superintendent signs this Agreement.

1.3 Possession Date. The earlier of the date when Concessionaire receives a building permit from the Seattle Department of Planning and Development ("DPD") to construct the Initial Improvements or authorization from the Superintendent to commence the Roadway Improvement project, each as defined in Sections 7.1 and 7.2.

1.4 Concession Fee Commencement Date. The date DPD issues a certificate of occupancy for the Initial Improvements.

1.5 Expiration Date. The date that is twenty (20) years from the Concession Fee Commencement Date, unless this Agreement is extended pursuant to Section 3.2.

1.6 Initial Improvements. Initial Improvements means the improvements Concessionaire is required to make to the Premises as generally described in Exhibit C.

1.7 Concession Fee and Additional Charges. The term "Concession Fee" as used herein, means the Base Concession Fee and the Percentage Concession Fee.

1.7.1 Base Concession Fee. $1.00 per square foot, annually, for a total initial annual Base Concession Fee of $79,581.00; provided, however, that if

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Concessionaire determines to rehabilitate rather than remove the Building, then the Base Concession Fee will be $91,297.00.

1.7.2 Percentage Concession Fee. Ten percent (10%) of the total compensation Concessionaire receives from short-term rentals of the Premises to third parties for corporate conferences, meetings, promotions and similar events ("Third-Party Rentals").

1.7.3 Additional Charges. Whether or not so designated, all other sums due from Concessionaire under this Concession Agreement shall constitute Additional Charges, payable when specified in this Agreement and if not specified, then upon Concessionaire's receipt of the City's invoice therefor.

1.7.4 Gross Receipts. As used herein, Gross Receipts means and includes the total income of Concessionaire and every other person or entity conducting business in, on or from the Premises for or on behalf of Concessionaire including, but not limited to, the proceeds from all Third-Party Rentals; retail and wholesale sales and rentals of services or merchandise of any kind whatsoever, for cash, barter, exchange or credit, regardless of collections; sales from vending devices; all deposits not refunded to purchasers; fees; commissions; catalog sales; and rental receipts. An installment or credit sale shall be deemed to have been made for the full price on the date of sale regardless of when payment is received. The term Gross Receipts does not mean or include the amount of money refunded to, and not merely credited to the account of, customers who return or do not accept services or merchandise sold by Concessionaire; any exchange of merchandise between stores or the central warehouses of Concessionaire where such exchange is made solely for the convenient operation of Concessionaire's business and not for the purpose of consummating a sale made in, on or from the Premises; returns to shippers or manufacturers; any discount allowed by Concessionaire to customers; or the Washington State Sales Tax and any other tax imposed by any government agency directly on sales.

1.8 Notice & Delivery Addresses.

To City: The City of Seattle
Department of Parks and Recreation
Attention: Manager
Contracts and Business Resources
6310 NE 74th Street
Seattle, WA 98105

To Concessionaire: Before Occupancy:

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c/o Scott Marshall
Managing Member, SCSU
1048 NE 100th Street
Seattle, WA 98125

After Occupancy: At the Premises

1. Exhibits. The following exhibits are made a part of this Agreement:

Exhibit A: Map of the Premises with Dimensions

Exhibit B: Legal Description
Exhibit C: Conceptual Plan for Initial Improvements (including Replacement Parking) and Roadway Improvements

Exhibit D: USA Deed

Exhibit E: Insurance Requirements

2. Premises.

2.1 Grant. Subject to all of the terms and conditions contained herein, City hereby grants to Concessionaire and Concessionaire hereby accepts from City, the exclusive right throughout the Term to use the Premises to construct and operate indoor and outdoor public tennis facilities, for a fee.

2.2 Conditions in USA Deed. This Agreement and the obligations of the parties hereto are subject to the terms and conditions set forth in the USA Deed, Exhibit D. Concessionaire shall use the Premises in strict accordance with all terms and conditions imposed by the United States of America and set forth in the USA Deed that pertain to its use including, but not limited to, the terms and conditions regarding hazardous materials, lead based paints, asbestos, and historic resources contained in the paragraphs numbered 8, 9, 10, 11, 12, and 13 of the USA Deed. In the event of any conflict between the terms and conditions of the USA Deed and any provision of this Agreement, the terms of the USA Deed shall control. Violations of the said terms and conditions of the USA Deed may be grounds for reversion to the United States of America of the Premises, in the discretion of the United States of America and with no compensation to either Concessionaire or the City from the United States of America.

2.3 Condition. Concessionaire accepts the Premises in their "as is" condition. Concessionaire acknowledges that Building 41, which is located on the Premises and which Concessionaire intends to demolish may contain Hazardous Substances (as defined in Section 8.8), particularly including lead paint and

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asbestos. Concessionaire agrees that all construction on or improvements to the Premises shall comply with all applicable laws relating to the abatement and disposal of Hazardous Substances and shall be subject to all of the requirements of Section 8, below.

2.4 License. Concessionaire and its licensees, invitees and customers may use the public areas of Magnuson Park (the "Park") as the same may be constituted from time to time, in common with the general public and other Park occupants and their respective licensees, invitees, customers and employees. City shall at all times have exclusive control and management of the Park; provided, however, that the City agrees to exercise such control and management of the Park in a manner that does not unreasonably interfere with Concessionaire's business operations on the Premises. In addition, for so long as is reasonably necessary to carry out the work, Concessionaire and its licensees, invitees and contractors shall have the right to use portions of the Park that the Superintendent designates, in advance, as staging areas to construct the Roadway Improvements. These staging areas are depicted generally on Exhibit C.

2.5 Permitted Use. Commencing on the Possession Date, Concessionaire shall use the Premises to construct and, upon receipt of a certificate of occupancy therefor, to operate upon the Premises an indoor tennis facility containing six or more regulation-sized tennis courts, and four or more regulation-sized outdoor tennis courts. In addition, Concessionaire may use the indoor tennis facility for purposes incidental to the operation of the tennis facility, including storage, offices, locker rooms and meeting rooms. Concessionaire may sell food and beverages at the Premises; provided, however, that in no event shall Concessionaire conduct any food service operation that, if open to the general public, has any interior seating area with twenty (20) or more seats dedicated exclusively for use by food and beverage customers.

With the Superintendent's prior approval, Concessionaire may engage in Third-Party Rentals of all or part of the Premises on an intermittent basis involving not more than five (5) consecutive days for any one event or, collectively, for not more than thirty (30) days in any one calendar year, provided such use is consistent with the Permitted Use of the Premises. Concessionaire shall include the process for selection of individuals or groups to use the Premises in the annual Management and Operations Plan required pursuant to Section 8.5, below, together with the standard terms and conditions of any proposed use agreements.

2.6 Continuous Operation. From and after the Concession Fee Commencement Date, Concessionaire shall conduct its

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business operations on the Premises continuously throughout the Term and shall keep the Premises open for business during the usual business hours of each and every business day as is customary for businesses of like character except for closures for remodeling, repair or renovation that the Superintendent approves, in advance.

2.7 Public Program Requirement. Throughout the Term Concessionaire shall provide open court time, free of charge, to youth (defined as children between the ages of 10 and 18) and seniors (defined as adults 65 or over) in an amount equal to or greater than that offered by the City's Amy Yee Tennis Center, but in no event less than a total of 8.75 hours per week. Concessionaire shall propose for the Superintendent's approval, the schedule and terms and conditions for open court time.

3. Concession Agreement Term.

3.1 Term. This Agreement shall commence on the Effective Date and terminate twenty (20) years from the Concession Fee Commencement Date unless the Agreement is terminated earlier as provided herein. On the Possession Date, Concessionaire shall have exclusive access to the Premises in order for Concessionaire to construct the Initial Improvements.

3.2 Extended Term. Provided Concessionaire is not in default under this Agreement and has continuously used and occupied the Premises for the Permitted Use, Concessionaire shall have the option to extend the Term of this Agreement for two (2) additional terms of five (5) years, each, on the same terms and conditions as are set forth herein except that there shall be no further renewal option. Concessionaire shall exercise its option(s) to extend the Term by giving the City written notice of its intention to do so at the address specified in Section 27, at least ninety (90) days prior to the expiration of the then-current Term.

4. Concession Fee.

4.1 Concession Fee Payment. Beginning on the Concession Fee Commencement Date and thereafter, in advance, on the twentieth (20^{th}) day of each month, Concessionaire covenants to pay the City at the address and to the account the City specifies, without notice or demand, in lawful money of the United States, the monthly amount of the Base Concession Fee together with any Percentage Concession Fee due from Third-Party Rentals that occurred during the immediately preceding month. Concessionaire shall pay the Percentage Concession Fee due for the last month of the Term within thirty (30) days from the date this Agreement expires or is terminated. The Concession Fee and, if appropriate, as reasonably determined by City, Additional Charges

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shall be prorated on a daily basis for any partial month during the Concession Agreement Term.

4.2 Adjustments to Base Concession Fee. Beginning on the first anniversary of the Concession Fee Commencement Date and every anniversary thereafter until the expiration or termination of this Agreement (each, a "Concession Fee Adjustment Date"), the Base Concession Fee shall be increased to an amount determined by multiplying the Base Concession Fee payable during the year immediately preceding the Concession Fee Adjustment Date by a fraction, the denominator of which shall be the Consumer Price Index for All Urban Consumers (All Items) in the Seattle-Tacoma-Bremerton region (1982-84 = 100) ("CPI"), published by the Bureau of Labor Statistics, United States Department of Labor, in effect as of the date which is twelve (12) months prior to the Concession Fee Adjustment Date, and the numerator of which shall be the CPI in effect as of the date immediately preceding the Concession Fee Adjustment Date.

By way of example, only, if the CPI on the commencement date of this Concession Agreement is 100 and the CPI most recently issued prior to the first Concession Fee Adjustment Date is 110 and the annual Base Concession Fee due under this Concession Agreement is $60,000.00, then the total CPI adjustment would be 110% and the annual Base Concession Fee under this Concession Agreement would increase to $66,000.00 effective as of the Concession Fee Adjustment Date.

If the CPI is discontinued, the parties shall agree upon another similar index to be used to calculate the contemplated adjustment and, in the event of an inability to agree, the parties shall request the American Arbitration Association or its successor to appoint a qualified arbitrator to establish an appropriate adjustment standard to measure inflation.

Notwithstanding the foregoing, beginning on the tenth (10th) anniversary of the Concession Fee Commencement Date and every five (5) years thereafter (each such period a "Concession Fee Review Date"), the City shall have the option to adjust the Base Concession Fee by either (i) the percentage increase in the CPI during the preceding year or (ii) the percentage increase in Concessionaire's Gross Receipts from the "Revenue Base Year" to the relevant "Revenue Adjustment Year," as defined and illustrated in the table below:

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Concession Fee Adjustment Date	Revenue Base Year	Revenue Adjustment Year
Year 10	Sixth full calendar year after the Concession Fee Commencement Date	Ninth full calendar year after the Concession Fee Commencement Date
Year 15	Eleventh full calendar year after the Concession Fee Commencement Date	Fourteenth full calendar year after the Concession Fee Commencement Date
Year 20 (in the event the Agreement is extended)	Sixteenth full calendar year after the Concession Fee Commencement Date	Nineteenth full calendar year after the Concession Fee Commencement Date
Year 25 (in the event the Agreement is extended)	Twenty-first full calendar year after the Concession Fee Commencement Date	Twenty-fourth full calendar year after the Concession Fee Commencement Date

By way of further example, only, if the CPI on the ninth (9th) anniversary of the Concession Fee Commencement Date is 100 and the CPI most recently issued prior to the tenth anniversary of the Concession Fee Commencement Date is 110 and the annual Base Concession Fee then due under this Agreement were $250,000.00, the City could increase the annual Base Concession Fee 110% to $275,000.00 as of the tenth (10th) anniversary date. Alternatively, if Concessionaire's Gross Receipts were $600,000.00 for the sixth (6th) full calendar year of the Agreement and $900,000.00 for the ninth (9th) full calendar year then, in lieu of the CPI adjustment for that year, the City could elect to increase the Base Concession Fee 150% to $375,000.00, effective on the tenth (10th) anniversary. The CPI adjustment formula would thereafter be applied each year as described above, until the next Concession Fee Review Date.

Under no circumstances shall the Base Concession Fee, as adjusted for any period, be less than Base Concession Fee payable during the immediately preceding period.

4.3 Roadway Improvement Project Offset. Throughout the Term, Concessionaire shall be entitled to apply as an offset against up to twenty percent (20%) of each monthly Base Concession Fee payment the actual remaining unamortized costs expended by Concessionaire and

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directly related to the design, permitting and construction of the Roadway Improvement Project, as depicted generally on Exhibit C, to a maximum of $200,000.00. These improvements shall generally be limited to roadway and sidewalk construction and related street tree, landscaping and lighting improvements. These costs may include hard and soft costs such as, but not limited to, labor, materials, architecture and engineering fees, permits, licensing fees, equipment costs or rental fees, construction or project management fees, sales tax, and consultants' fees.

4.3.1 Superintendent's Approval of Alterations Budget. Prior to commencing construction of the Roadway Improvement Project, Concessionaire shall submit to the Superintendent a budget for the same (the "Construction Budget"). Within thirty (30) days after receipt of the Construction Budget and subject to the provisions of Section 4.3, the Superintendent shall indicate the total amount of budgeted construction costs for the improvements that the Superintendent approves as potentially eligible for a Concession Fee Offset.

4.3.2 Superintendent Approval of Alterations' Actual Costs. Not later than six (6) months after Concessionaire finally completes the Roadway Improvement Project, as evidenced by Concessionaire's proof of final payment for the Roadway Improvement Project, Concessionaire shall provide the Superintendent with an accounting of its actual costs associated with the capital improvements, together with such supporting documentation as the Superintendent may reasonably request. The Superintendent shall certify the final amount of costs expended by Concessionaire in connection with such improvements and this amount shall constitute the amount of Roadway Improvement Project Offset.

4.3.3 Concession Fee Offset Reporting. Each month throughout the Term, Concessionaire shall report to the Parks Finance Director, or his or her designee, the dollar amount of Roadway Improvement Project Offset it is applying to the Base Concession Fee. If the aggregate amount of capital expenditures subject to the Roadway Improvement Project Fee Offset exceeds the total Base Concession Fee payable under this Concession Agreement during the Term, Concessionaire shall not have any right to recover from the City the balance. Unless the Superintendent agrees otherwise, upon the termination or expiration of this Concession Agreement, any remaining balance shall be deemed to be donated to the City, and the improvements shall be surrendered with the Premises in accordance with Sections 11.3 and 14.

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4.4 Public Program Concession Fee Offsets. Concessionaire may request a Public Program Concession Fee Offset against Base Concession Fee to reflect expenditures for programming that is available to the public (such as scholarship programs or free public classes) beyond that which is required by Section 2.7. In the annual Management and Operations Plan, Concessionaire may identify the amount of Public Program Concession Fee Offset it is requesting for the upcoming calendar year based upon public programming it provided during the preceding calendar year and any other justification for the request. The Superintendent will respond to the request within thirty (30) days, stating the amount, if any, of the Public Program Concession Fee Offset allowed for the upcoming calendar year. The amount of the Public Program Concession Fee Offset for a given year shall rest in the Superintendent's sole Discretion.

After the first month of operation and continuing during the first year of operation, the Concessionaire may request a Public Program Concession Fee Offset against Base Concession Fee to reflect expenditures in the preceding month for programming that is available to the public beyond that which is required by Section 2.7.

5. Late Charge; Interest. If Concessionaire fails to pay the City any sum when due, such amount shall bear interest at the rate of twelve percent (12%) per annum from the date due until the date paid.

6. Recordkeeping and Reporting; Audit. Concessionaire shall keep true, full and accurate books of account setting forth Concessionaire's receipts and all related revenues associated with the Tennis Center, together with any other information that will affect the determination of the Concession Fee and Additional Charges and shall account for its Gross Receipts on a daily basis. Together with each monthly Percentage Concession Fee payment due hereunder, Concessionaire shall deliver to the City an accurate, itemized accounting report of all revenues earned during the month for which payment is being made. Within thirty (30) days after the end of each calendar year throughout the Term, Concessionaire shall deliver to the City a written report, itemized by revenue source, identifying the aggregate amount of Gross Receipts generated from operation of the Premises during the immediately preceding calendar year.

The City shall be allowed, after five (5) days' prior written notice to Concessionaire, to inspect Concessionaire's books of account at Concessionaire's office and to procure audits thereof by an auditor at the City's sole cost and expense (except as provided below). If in the reasonable judgment of such auditor, Concessionaire's books of account are incomplete or improperly

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reflect the information necessary for an accurate determination of the Concession Fee, or if the audit shall show that the reports submitted by Concessionaire understated Concessionaire's receipts by more than three percent (3%) thereof for any year covered by the audit, the costs and fees for such audit shall be paid by Concessionaire to the City. Concessionaire shall retain all books of accounting and any other information that will affect the determination of the Concession Fee and Additional Charges for a period of six (6) years after the last day of the period that such particular record covers, and Concessionaire shall make them available for inspection at Concessionaire's office within ten (10) days of City's prior written demand therefor. For example, Concessionaire shall maintain its 2010 financial records through December 31, 2016. Concessionaire's obligations under this Section shall survive expiration or termination of this Concession Agreement.

Concessionaire shall supply the City with any documentation that the City requires in order for it to file required compliance reports required by the Federal Lands to Parks Program, National Park Service.

7. Conditions Subsequent.

7.1 Concessionaire's Alteration Requirements. The parties acknowledge and agree that the construction of the improvements as contemplated herein, is a fundamental purpose of this Concession Agreement and Concessionaire agrees to use every commercially reasonable effort to complete the Initial Improvements and the Roadway Improvement Project and to obtain a certificate of occupancy for the Permitted Use within twenty-four (24) months of the Effective Date. The Superintendent may extend this deadline if Concessionaire can demonstrate that the delay is attributable to obtaining necessary city permits through no fault of Concessionaire, necessary pending amendments to the Land Use Code, or Force Majeure events.

If Concessionaire fails to complete the Initial Improvements and the Roadway Improvement Project by the above date, the City may terminate this agreement by providing written notice to Concessionaire and the parties shall have no further rights or obligations with respect to one another.

7.2 Approval of Initial Improvement and Roadway Improvement Plans. Prior to June 1, 2009, Concessionaire shall submit to the Superintendent for review and approval, in his or her reasonable discretion, plans and specifications detailing the Initial Improvements and the Roadway Improvements Concessionaire proposes to

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make to the Premises, which plans and specifications shall, to the extent commercially reasonable, incorporate environmentally sustainable design principles. The Superintendent shall approve the Initial Improvements and Roadway Improvement plans or provide Concessionaire with written comments thereon by thirty (30) days after the date of the Initial Improvements and the Roadway Improvements plan submission. If the Superintendent does not deliver written comments on Concessionaire's Initial Improvements and Roadway Improvement plans by thirty (30) days after the plan submission, then the Initial Improvements and Roadway Improvement plans shall be deemed approved by the Superintendent for purposes of this Concession Agreement, only. If the Superintendent delivers written comments by thirty (30) days after the plan submission, Concessionaire shall make such modifications to the plans as will address the Superintendent's concerns.

7.3 Concessionaire's Funding Responsibilities. Concessionaire shall be fully responsible for and shall promptly pay all costs associated with the Initial Improvements and the Roadway Improvements including, but not limited to, all design, permitting and construction costs. The City shall provide no funds for the Initial Improvements or the Roadway Improvements. Prior to starting construction, Concessionaire shall present evidence to the reasonable satisfaction of the Parks Finance Director that it has access to sufficient funds to complete the Initial Improvements and the Roadway Improvements. If Concessionaire fails to present satisfactory evidence, the City may terminate this agreement by providing written notice to Concessionaire and the parties shall have no further rights or obligations with respect to one another.

7.4 Land Use Code Amendments. Concessionaire and the Superintendent shall work together to develop and propose to the City Council amendments to Seattle Municipal Code Chapter 23.72 (Sand Point Overlay District) that would allow the Permitted Use of the Premises under this Concession Agreement. If applicable land use ordinances, rules or regulations do not allow the Permitted Use of the Premises on or before June 30, 2010, either party may terminate this Concession Agreement by providing written notice to the other not later than July 31, 2010 and the parties shall have no further rights or obligations with respect to one another under this Concession Agreement.

7.5 Approval of Signage Plan. Once code amendments are approved setting standards for signage at Magnuson Park, Concessionaire shall submit to the Superintendent for review and approval, in his or her sole discretion, a plan for exterior signage for the Premises and for the Park describing Concessionaire's

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Permitted Use. The Superintendent shall approve the plan or provide written comments thereto by forty-five (45) days after the signage plan submission. If the Superintendent does not deliver to Concessionaire written comments on Concessionaire's signage plan by forty-five (45) days after the plan submission, then Concessionaire's signage plan shall be deemed approved by the Superintendent. If the Superintendent objects to any element of Concessionaire's signage plan by forty-five (45) days after the plan submission, City and Concessionaire shall negotiate in good faith revisions to Concessionaire's signage plan. The Superintendent shall approve or deny the plan by one-hundred twenty (120) days after the initial submission. If Concessionaire's signage plan is not approved by one-hundred twenty (120) days after the initial submission, then Concessionaire may terminate this Agreement by providing written notice to the City not later than one-hundred fifty (150) days after the initial submission, and the parties shall have no further rights or obligations with respect to one another.

8. Concessionaire's Operations.

8.1 Use of Premises. Concessionaire shall use the Premises only for the Permitted Use. As City's willingness to enter into this Concession Agreement with Concessionaire was predicated, in part, on the nature of Concessionaire 's business, and the compatibility of such business with the use of the remainder of the Park, Concessionaire shall not use or permit the use of the Premises for any other business, or purpose, without City's prior written consent. Furthermore, Concessionaire's use shall be in strict accordance with all terms and provisions imposed by the United States of America as set forth in the USA Deed. Written concurrence by the National Park Service shall be required for other proposed use in conjunction with or in addition to the Permitted Use. Concessionaire shall promptly comply, at its sole cost and expense, with such reasonable rules and regulations relating to the use of the Premises and Park as City, from time to time, may promulgate provided that such rules and regulations shall not materially interfere with Concessionaire's business operations related to the Permitted Use. In the event of any conflict between the rules and regulations promulgated by City and the terms of this Concession Agreement, the terms of this Concession Agreement shall control. Concessionaire shall maintain the Premises in a clean and neat fashion and to a standard found at other Parks properties similar in age, level of public use, and public visibility, permitting no objectionable odors to be emitted from the Premises and shall neither commit waste nor permit any waste to be committed thereon. Concessionaire shall not permit any accumulation of trash on or about the Premises.

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8.2 Alcoholic Beverage Sales. Concessionaire shall not permit intoxicating beverages of any kind to be used, sold, consumed, or dispensed upon the Premises unless the Superintendent has approved such use, sale, consumption or dispensing in advance, in writing, which approval shall not be unreasonably withheld, conditioned or delayed and such approval shall be deemed to have been given if not withheld in writing within forty-five (45) days after delivery of a request for consent. Any such use sale, consumption or dispensing shall comply with applicable laws, ordinances, rules, and regulations then in force.

8.3 Fees. Fees that Concessionaire charges the public for court time devoted to singles and doubles play shall be set at no less that seventy-five percent (75%) and no greater than one-hundred fifty (150%) of fees charged for similar time at the Amy Yee Tennis Center. Concessionaire may increase fees above this level based on increases in the Consumer Price Index (CPI), using the formula described in Subsection 4.2, above.

8.4 High-Capacity Events. Magnuson Park has limited capacity to handle multiple events with large numbers of attendees. Therefore, if Concessionaire reasonably anticipates that more than one-hundred fifty (150) people will be in attendance at any event on the Premises, Concessionaire shall provide the City with no less than thirty (30) days' advance written notice of the event. If the City determines that the event would conflict with other high-capacity events that have already been scheduled to take place at the same time, the City shall notify Concessionaire within five (5) business days after receipt of Concessionaire's notice. Upon receipt of such notice, Concessionaire shall either reschedule the event or reduce the size of the event to less than fifty (50) attendees.

8.5 Management and Operations Plan. Concessionaire shall prepare and submit to the Superintendent, for his or her approval (which shall not be unreasonably withheld, conditioned, or delayed), an annual plan for the management and operation of the Premises. The first plan shall be due on or before the date that is thirty (30) days prior to Concessionaire's occupancy of the Premises for operational purposes, and subsequent plans shall be due on or before October 1st of each year thereafter. The Management and Operations Plan shall include such information as the Superintendent may reasonably specify from time to time for comparable Parks facilities, but at a minimum shall include a description of Concessionaire's proposed capital improvements to the Premises (other than the Initial Improvements and the Roadway Improvement Project); the anticipated programming for the upcoming year; the number of people served, by

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age group, during the preceding year and projected for the upcoming year; the dollar amount of scholarships given for the past year and anticipated to be given for the upcoming year; criteria for scholarship awards; and information concerning Third-Party usage. The Management and Operations Plan shall also set forth how the Concessionaire shall ensure that the use of the Premises shall conform to the requirement set forth in the USA Deed that the Premises be used for public park and public recreation purposes. The City shall be deemed to have approved the Management and Operations Plan (and all uses and events noted therein) unless the Superintendent delivers to Concessionaire written objections thereto within sixty (60) days after submission of the Management and Operations Plan to City. If the Superintendent delivers written comments on the Management and Operations Plan within the sixty (60) day period, City and Concessionaire shall negotiate in good faith such revisions to the Management and Operations Plan as will satisfy the Superintendent's concerns. Concessionaire may amend or modify the plan from time to time with the prior approval of the Superintendent, which approval shall not be unreasonably withheld, conditioned, or delayed. City shall be deemed to have approved the amended plan (and all uses and events noted therein) unless it rejects the amended plan in writing within twenty (20) days.

8.6 Compliance with Laws; Nondiscrimination.

8.6.1 General Obligation. Concessionaire shall not use or permit the Premises or any part thereof to be used for any purpose in violation of any municipal, county, state or federal law, ordinance or regulation, or any term or condition contained in the USA Deed, or for any purpose offensive to the standards of the community. Concessionaire shall promptly comply, at its sole cost and expense, and ensure that its contractors and agents comply, with all terms and conditions in the USA Deed, and with all laws, ordinances and regulations now in force or hereafter adopted relating to or affecting the renovation or improvement of the Premises or condition or use or occupancy of the Premises during the term of this Concession Agreement.

8.6.2 Nondiscrimination. Without limiting the generality of Section 8.6.1,Concessionaire 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 those laws set forth in conditions 5 and 6 of the USA Deed and Chapters 14.04, 14.10 and 20.42 of the Seattle Municipal Code, as they may be amended from time to time, and rules, regulations, orders and directives of the associated administrative

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agencies and their officers.

8.7 Liens and Encumbrances. Concessionaire shall keep the Premises free and clear of, and shall indemnify, defend and hold City harmless from, any and all, liens and encumbrances arising or growing out of any act or omission, or breach of this Concession Agreement or its use, improvement or occupancy of the Premises by Concessionaire or any of its principals, officers, employees or agents or subtenants. Concessionaire shall inform the City in writing of any lien filed against the Premises within ten (10) days of the filing date of the lien. If any lien is so filed against the Premises, Concessionaire shall either cause the same to be fully discharged and released of record within ten (10) days after City's written demand therefor or, within such period, provide City with cash or other security acceptable to City in an amount equal to one and one-half (11/2) times the amount of the claimed lien as security for its prompt removal. City shall have the right to disburse such security to cause the removal of the lien if City deems such necessary, in City's sole discretion. The indemnification and defense obligation of this Section shall survive the expiration or earlier termination of this Concession Agreement.

8.8 Hazardous Substances. As used in this Concession Agreement, "Hazardous Substances" means any substance designated as, or containing any component now or hereafter designated as hazardous, dangerous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance.

8.8.1 Use and Disposal of Hazardous Substances. Concessionaire shall not, without City's prior written consent, keep on or about the Premises any Hazardous Substances except customary office, kitchen, cleaning and other related supplies in normal quantities and handled in compliance with applicable laws. With respect to any Hazardous Substances stored with City's consent, Concessionaire shall promptly, timely and completely comply with all applicable governmental requirements for reporting and record keeping; submit to City true and correct copies of all reports, manifests and identification numbers (if any) at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; within five (5) days after City's request therefor, provide evidence satisfactory to City of Concessionaire's compliance with all applicable governmental rules, regulations and requirements; and comply with all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment and disposal of Hazardous Substances used at the Premises. Any and all costs incurred by City

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and associated with City's inspections of the Premises and City's monitoring of Concessionaire's compliance with this Section 8.8.1, including City's attorneys' fees and costs, shall be Additional Charges and shall be due and payable to City within ten (10) days after City's demand therefor, if Concessionaire's violation of this Section 8.8.1 is discovered as a result of such inspection or monitoring. Concessionaire shall be fully and completely liable to City for any and all cleanup costs and expenses and any and all other charges, expenses, fees, fines, penalties (both, civil and criminal) and costs imposed with respect to Concessionaire's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises.

8.8.2 Hazardous Substances Indemnity. Concessionaire covenants and agrees to indemnify, defend and hold the City, its agents and employees, harmless from any and all of the damages, costs, fees, penalties, charges and expenses assessed against, or imposed, upon City (as well as City's attorneys' fees and costs) from (a) any claims for personal injury to the extent caused by exposure, after the date on which Concessionaire took control of the Premises, to lead-based paint, asbestos or other Hazardous Substances; and (b) Concessionaire's use, disposal, transportation, generation and/or sale of Hazardous Substances on or about the Premises during the Term. City shall indemnify, defend and hold Concessionaire harmless from any and all of the costs, fees, penalties, charges and expenses assessed against, or imposed upon Concessionaire (including Concessionaire's attorneys' fees and costs) as a result of the use, disposal, transportation, generation and/or sale of Hazardous Substances on or about the Premises except for such Hazardous Substances released by Concessionaire. The indemnification and defense obligations of this Section shall survive the expiration or earlier termination of this Concession Agreement.

9. Utilities.

9.1 General. To the extent practicable, Concessionaire shall cause all utilities serving the Premises to be separately metered. Concessionaire shall pay when due to the appropriate providers, all charges for utilities for the Premises, including but not limited to, electricity, water and sewer services and data and telecommunications services.

9.2 Refuse Collection; Recycling of Waste Materials. Concessionaire shall provide all necessary housekeeping and janitorial services for the Premises to a level consistent with other similar Parks facilities and operations and to the Superintendent's reasonable satisfaction. Concessionaire shall be responsible for

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proper storage and removal of trash, litter pickup and recycling consistent with City standards.

9.3 Interruption. Except as a result of the gross negligence or willful misconduct of City, City shall not be liable for any loss, injury or damage to person or 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 or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed an eviction of Concessionaire or to relieve Concessionaire from any of Concessionaire's obligations hereunder or to give Concessionaire a right of action against City for damages. City has no obligation to provide emergency or backup power to Concessionaire. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Concessionaire.

10. Licenses and Taxes.

10.1 Payment of Licenses and Taxes. Without any deduction or offset whatsoever, Concessionaire shall be liable for, and shall pay prior to delinquency, all taxes, license and excise fees and occupation taxes applicable to Concessionaire's business activities conducted on the Premises and all personal property taxes and other impositions levied with respect to all personal property located at the Premises and owned by Concessionaire. Concessionaire shall be responsible for, and shall pay prior to delinquency, all fees, charges, or costs, for any governmental inspections or examinations relating to Concessionaire's use and occupancy of the Premises, and pay all taxes on the leasehold interest created by this Concession Agreement (e.g., leasehold excise taxes).

10.2 Contests. Concessionaire 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 Concessionaire of its covenant to pay any such taxes. City shall not be subjected to any liability or for the payment of any costs or expenses in connection with any such proceeding brought by Concessionaire, and Concessionaire hereby covenants to indemnify and hold City harmless from any such costs or expenses. The indemnification obligation contained in this Section shall survive the expiration or earlier termination of this Concession Agreement.

11. Alterations by Concessionaire.

11.1 Superintendent's Approval. Concessionaire shall not make any alterations, additions or improvements in or to the Premises without first submitting to the Superintendent professionally-prepared and stamped plans and specifications and a construction schedule for such work and obtaining the Superintendent's prior written approval thereof.

11.2 Alteration Standards and Requirements. Concessionaire covenants that it will cause all alterations, additions and improvements to the Premises to be completed at Concessionaire's sole cost and expense by a licensed contractor approved by the City and in a manner that (a) is built in accordance with the Superintendent-approved plans and specifications and any conditions imposed by the Superintendent in connection therewith; (b) is in conformity with first-class, commercial standards; (c) includes acceptable insurance coverage and bonding, for City's benefit; (d) does not negatively affect the structural integrity of the Premises or any of the Premises' systems; and (e) does not invalidate or otherwise affect the construction or any system warranty then in effect with respect to the Premises. In addition, Concessionaire shall meet with the City's Green Building Team and shall use good faith efforts to incorporate green building practices and sustainable design into its design for the any alterations, additions and improvements to the Premises. Concessionaire shall secure all governmental permits and approvals required for the work; and shall comply or cause its contractors to comply with all other applicable governmental requirements and restrictions, including RCW 39.12 pertaining to prevailing wages.

11.3 Ownership of Alterations. All alterations, additions and improvements (expressly including all light fixtures; heating and ventilation units; floor, window and wall coverings; and electrical wiring), shall become the property of City at the expiration or termination of this Concession Agreement without any obligation on its part to pay for any of the same. At the Superintendent's request, Concessionaire shall execute a deed or bill of sale in favor of City with respect to such alterations and/or improvements. Notwithstanding the foregoing, Concessionaire shall remove all or any portion of such alterations and/or improvements on the expiration or termination of this Concession Agreement if the Superintendent specifically so directs, in writing, at the time the Superintendent issues his or her approval thereof. Notwithstanding the foregoing,

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in no event shall Concessionaire be required to remove the underlying site and foundation work performed in constructing the Initial Improvements, or any of the Roadway Improvements.

11.4 As-built Drawings. Within ninety (90) days after the completion of any alteration, addition or improvement to the Premises, Concessionaire shall deliver to the Superintendent a full set of "as-built" plans of the Premises showing the details of all alterations, additions and improvements made to the Premises by Concessionaire, if typically produced for alterations and improvement of like character.

12. Care of Premises.

12.1 General Obligation. Concessionaire shall take good care of the Premises and shall reimburse City for all damage done to the Premises that results from any act or omission of Concessionaire or any of Concessionaire's officers, contractors, subtenants, agents, invitees, licensees or employees, normal wear and tear excluded.

12.2 Minor and Major Maintenance Obligation. Concessionaire shall be responsible for all minor and major maintenance of the Premises and structures erected on the Premises during the Term of this Concession Agreement including, but not limited to, repairs of cracked or broken glass, regular exterior painting and masonry maintenance, roof repairs and replacement, and HVAC repair and replacement. The foregoing sentence does not extend to maintenance occasioned by an act or omission of City or its officers, agents, employees, or contractors, for which City shall be responsible. Except in the event of City's gross negligence or intentional misconduct, there shall be no abatement or reduction of the Concession Fee arising by reason of City's making of repairs, alterations or improvements to the Premises. The City shall maintain the parking areas and Park common areas to the standard typical of other, similar park properties.

12.3 Joint Annual Inspection of Premises; Remedial Action Obligation. Concessionaire shall participate in an annual inspection of the Premises with the City and shall take any and all action that is consistent with the terms of this Concession Agreement that the City may specify as necessary to maintain and operate the Premises in a clean and safe manner.

12.4 City Remedy Upon Concessionaire's Failure to Maintain Premises. If Concessionaire fails to maintain the Premises in good order, condition, and repair, the City shall give Concessionaire

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notice to undertake such work as is reasonably required to so maintain the Premises. If Concessionaire fails to commence such work within thirty (30) calendar days after the effective date of the City's notice and to diligently prosecute it to completion, then the City shall have the right, at its option and in addition to all other remedies, to undertake such work and to invoice Concessionaire for the costs reasonably incurred by the City in connection therewith and Concessionaire shall promptly pay the same as Additional Charges. The City shall have no liability to Concessionaire for any damage, inconvenience, or interference with Concessionaire's use of the Premises as a result of the City's performing any such work, except to the extent it is the City's, or its agents' or contractors' gross negligence or intentional misconduct.

12.5 Custodial Service for Premises. Concessionaire shall, at its own expense, at all times, keep the Premises, the entrance to the Premises and areas within ten (10) feet of the exterior Premises' walls in a neat, clean, safe, and sanitary condition; and keep the glass of all windows and doors serving the Premises clean and presentable. Concessionaire shall furnish all cleaning supplies and materials needed to operate such areas in the manner prescribed in this Concession Agreement and all necessary janitorial service to adequately maintain the inside of such areas using a company reasonably approved by City. To the maximum extent practicable, Concessionaire shall comply with any recycling program that the City establishes for the Premises and/or Park.

If, after the City provides written notice to Concessionaire of Concessionaire's failure to comply with this Section, Concessionaire fails to take good care of such areas, City, at its option, may do so, and in such event, upon receipt of written statements from City, Concessionaire shall promptly pay the entire actual and reasonable cost thereof as an Additional Charge. City shall have the right to enter the Premises for such purposes. City shall not be liable for interference with light, air or view.

12.6 Prohibition Against Installation or Integration of Any Work of Visual Art on Premises Without City's Consent. The City reserves to and for itself the right to approve or disapprove of 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, and to approve or disapprove of each and every agreement regarding any such installation or integration. Concessionaire shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without the

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City's prior, express, written consent. The City's consent to the installation of any such art work may be granted, granted upon one or more conditions, or withheld in the City's discretion.

12.7 Concessionaire's Indemnification of City Against Liability under Visual Artists Rights Act of 1990. Concessionaire 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 12.6 of this Agreement; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Concessionaire 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 and defense obligation contained in this Section shall survive the expiration or earlier termination of this Concession Agreement.

13. Signs and Advertising.

13.1 Signs, Generally. Except for those signs authorized by the Superintendent in connection with the approval of Concessionaire's signage plan described in Section 7.5, temporary signs permitted under Section 13.2, and the sign described in Section 13.3, Concessionaire shall not inscribe, post, place, or in any manner display any sign, notice, picture, poster, or any advertising matter whatsoever placed or installed the exterior of the Premises, without the Superintendent's prior written consent, which consent may be granted, withheld or conditioned in the Superintendent's reasonable discretion. Concessionaire shall remove all signage at the expiration or earlier termination of this Concession Agreement and repair any damage or injury to the Premises caused by such removal.

13.2 Temporary Signs. Temporary signs or banners not more than twenty-four (24) square feet in size may be displayed on or about the Premises to advertise a special event beginning two weeks immediately before the event advertised, through the conclusion of such event.

13.3 Recognition. Concessionaire shall install one sign on or about the exterior of the Premises with the Seattle Parks Department

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logo and a statement recognizing Seattle Parks and Recreation's ownership of the building and memorializing the history of the building as part of the Sand Point Naval Air Station. Concessionaire shall also ensure that it does nothing to interfere or conflict with the City's obligation to provide signage as described in provision 2 of the USA Deed.

14. Surrender of Premises. At the expiration or sooner termination of the Concession Agreement Term, Concessionaire shall return the Premises to City in the same condition in which received on the Possession Date (or, if altered, then the Premises shall be returned in such altered condition unless otherwise directed by City pursuant to Section 11), excluding normal wear and tear. Prior to such return, Concessionaire shall remove its moveable trade fixtures and appliances and equipment that have not been attached to the Premises, and shall repair any damage resulting from their removal. Concessionaire's obligations under this Section 14 shall survive the expiration or termination of this Concession Agreement.

15. Waiver; Indemnification.

15.1 Concessionaire's Indemnification. Except as otherwise provided in this Section, Concessionaire shall indemnify, defend (using legal counsel reasonably acceptable to City) and save City, City's officers, agents, employees and contractors, harmless from all claims, suits, losses, damages, fines, penalties, liabilities and expenses (including City's actual and reasonable personnel and overhead costs and attorneys' fees and other costs incurred in connection with claims, regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) of any person or from any actual or alleged loss of or damage to, any property arising out of or in connection with (a) Concessionaire's occupation, use or improvement of the Premises, or that of any of its employees, agents or contractors, (b) Concessionaire's breach of its obligations hereunder, or (c) any act or omission of Concessionaire or any licensee or assignee of Concessionaire, or of any officer, agent, employee, guest or invitee of any of the same in or about the Premises. Concessionaire agrees that the foregoing indemnity specifically covers actions brought by its own employees. The indemnification and defense obligations contained in this Section shall survive termination or expiration of this Concession Agreement. The foregoing indemnity is specifically and expressly intended to, constitute a waiver of Concessionaire's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide City with a full and complete indemnity from claims made by Concessionaire and its employees, to

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the extent of their negligence. Concessionaire shall promptly notify City of casualties or accidents occurring in or about the Premises.

15.2 Concessionaire's Release of Claims. Concessionaire hereby fully and completely waives and releases all claims against City to the extent a loss or damage is covered by insurance, for any losses or other damages sustained by Concessionaire or any person claiming through Concessionaire, resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of equipment; any failure to make repairs; any defect, failure, surge in, or interruption of building facilities or services; broken glass; water leakage; the collapse of any building component.

15.3 Limitation of Concessionaire's Indemnification. In compliance with RCW 4.24.115, if and as the same is in effect on the Effective Date of this Concession Agreement, all provisions of this Concession Agreement pursuant to which City or Concessionaire (the "Indemnitor") agrees to indemnify the other (the "Indemnitee") against liability for damages arising out of bodily injury to persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, road, or other structure, project, development, or improvement attached to real estate, including the Premises, (a) shall not apply to damages caused by or resulting from the sole negligence of the Indemnitee, its agents or employees, and (b) to the extent caused by or resulting from the concurrent negligence of (i) the Indemnitee or the Indemnitee's agents or employees, and (ii) the Indemnitor or the Indemnitor's agents or employees, shall apply only to the extent of the Indemnitor's negligence.

CITY AND CONCESSIONAIRE ACKNOWLEDGE THAT THEY SPECIFICALLY NEGOTIATED AND AGREED UPON THE INDEMNIFICATION PROVISIONS OF THIS SECTION 15.

16. Insurance. At all times throughout the Term of this Agreement, Concessionaire shall comply with the requirements of Exhibit E with respect to insurance.

17. Assignment or Sublease by Concessionaire.

17.1 Assignment or Sublease. Concessionaire shall not sublet or encumber the whole or any part of the Premises, nor shall this Agreement or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise without the prior written consent of both the

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Superintendent and the National Park Service, whose consent shall be given or withheld in his, her, or its sole discretion. An assignment of this Agreement to a lender for security purposes shall constitute an assignment requiring the prior written consent of both the Superintendent and the National Park Service. If Concessionaire is a corporation, then any transfer of this Agreement by merger, consolidation or liquidation, or any direct or indirect change, in the ownership of, or power to vote the majority of, Concessionaire's outstanding voting stock, shall constitute an assignment requiring the prior written consent of both the Superintendent and the National Park Service. If Concessionaire is a partnership, then a change in general partners in or voting or decision-making control of the partnership shall also constitute an assignment requiring the prior written consent of both the Superintendent and the National Park Service. The granting of consent to a given transfer shall not constitute a waiver of the consent requirement as to future transfers. Any assignment or sublease without the Superintendent's or the National Park Service's prior written consent, at the Superintendent's or the National Park Service's option, shall be void. No assignment or sublease shall release Concessionaire from primary liability hereunder. Each assignment and sublease shall be by an instrument in writing in form satisfactory to the Superintendent and the National Park Service.

17.2 Fees Due to City upon Transfer. If this Agreement is assigned, the Superintendent's consent shall not constitute the recognition of such assignee or other party as a tenant or act as a release of Concessionaire from the further performance of all of Concessionaire's covenants and obligations under this Agreement. If the Superintendent consents to any assignment or subletting (other than short term rentals), Concessionaire shall pay the Superintendent a fee not to exceed twenty-three and one-half percent (23.5%) of one month's installment of the Base Concession Fee due (before any offset) to the City, for expenses incurred in connection with processing of documents necessary to the giving of such consent and the additional monitoring and administration related to the same.

17.3 City's Rights Upon Proposed Sale of Concessionaire's Business. Before entering into a contract with anyone else during the Term hereof respecting any potential sale of the assets and business of Concessionaire as conducted on the Premises ("Concessionaire's Business"), Concessionaire shall notify the City of such potential sale. Provided the City gives Concessionaire written notice of its desire to acquire Concessionaire's Business within five (5) business days after receipt of said notice, the City shall, thereafter, for a period of thirty (30) days, have the right

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to negotiate with Concessionaire for the sale of Concessionaire's Business to the City. Concessionaire and City agree to negotiate for such sale in good faith. If, after giving written notice of its exercise of its right to negotiate, the City and Concessionaire do not enter into an agreement within said thirty (30) day period and Concessionaire thereafter enters into an agreement with a third-party for the sale of Concessionaire's Business, Concessionaire shall give notice to the City of the proposed transaction together with a copy of the contract and such other information as the City may reasonably request, and the City shall have the right, to be exercised not later than ten (10) business days following the City's receipt of the requested information and the contract of sale, to purchase Concessionaire's Business on the same terms and conditions as set forth in the contracted except that if the contract calls for the payment of the purchase price other than in full at the closing, the City shall have the right to pay the purchase price in full in an amount which shall be discounted to present value based on the current Prime Interest Rate as published in the Wall Street Journal at the time of close. It is understood that if the City does not exercise its rights hereunder in any particular instance, this provision shall nevertheless be applicable to any further or future potential transfer. The City agrees to not unreasonably withhold its consent to an assignment of the Concession Agreement pursuant to a sale of the business if the City has forgone its option to purchase the business. The City shall not be responsible for payment of any commission associated with the transaction.

18. Assignment by the City. If the City sells or otherwise transfers the Premises, or if the City assigns its interest in this Concession Agreement, such purchaser, transferee, or assignee thereof shall be deemed to have assumed the City's obligations under this Concession Agreement arising after the date of such transfer, and the City shall thereupon be relieved of all liabilities under this Concession Agreement arising thereafter, but this Concession Agreement shall otherwise remain in full force and effect. Concessionaire shall attorn to the City's successor, which assumes and agrees to perform all of the City's obligations under this Concession Agreement.

19. Destruction. If the improvements to the Premises are rendered partially or totally untenantable by fire or other casualty, and if the damage is repairable within twenty-four (24) months from the date of the occurrence, then, if insurance proceeds or self-insurance coverages are available to pay the full cost of the repairs (except for the deductible amounts), Concessionaire shall repair the Premises with due diligence and in addition, shall promptly repair, at its sole cost and expense, all damage to its personal and business

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property. If the improvements to the Premises are repaired, the Concession Fee and Additional Charges shall be abated in the proportion that the untenantable portion of the Premises bears to the whole thereof, as the City determines, for the period from the date of the casualty to the completion of the repairs. If the damage to the improvements to the Premises is uninsured or cannot be repaired within twenty-four (24) months from the date of the occurrence, Concessionaire may terminate this Concession Agreement upon sixty (60) days' written notice to the City. If this Concession Agreement is terminated due to casualty, the City shall be entitled to all insurance proceeds payable on account of the loss to the improvements to the Premises.

20. Eminent Domain.

20.1 Taking. If all of the Premises are taken by Eminent Domain, this Concession Agreement shall terminate as of the date Concessionaire is required to vacate the Premises and all Concession Fees and Additional Charges shall be paid to that date. Exercise by the United States of America of its right to revert the property under the terms and conditions of the USA Deed shall not be construed as an exercise of Eminent Domain by the United States of America. The term "Eminent Domain" shall include the taking or damaging of property by, through or under any governmental or statutory authority, and any purchase or acquisition in lieu thereof, whether the damaging or taking is by government or any other person. If a taking of any part of the Premises by Eminent Domain renders the remainder thereof unusable for Concessionaire's business, in the reasonable judgment of Concessionaire, Concessionaire may terminate this Concession Agreement by written notice given to the City not more than thirty (30) days after City gives Concessionaire written notice of the taking, and such termination shall be effective as of the date when Concessionaire is required to vacate the portion of the Premises so taken. If this Concession Agreement is so terminated, all Concession Fees and Additional Charges shall be paid to the date of termination. Whenever any portion of the Premises is taken by Eminent Domain and this Concession Agreement is not terminated, the City, at its expense, shall proceed with all reasonable dispatch to restore, to the extent of available proceeds and to the extent it is reasonably prudent to do so, the remainder of the Premises to the condition they were in immediately prior to such taking, and Concessionaire, at its expense, shall proceed with all reasonable dispatch to restore its personal property and all improvements made by it to the Premises to the same condition they were in immediately prior to such taking, to the extent award is available therefor. The Base Concession Fee and Additional Charges payable hereunder shall be

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reduced from the date Concessionaire is required to partially vacate the Premises in the same proportion that the usable area of the Premises taken bears to the total usable area of the Premises prior to taking.

20.2 Award. Except as otherwise provided below, the City reserves all right to the entire damage award or payment for any taking by Eminent Domain, and Concessionaire waives all claim whatsoever against the City for damages for termination of its Concession leasehold interest in the Premises or for interference with its business. Concessionaire hereby grants and assigns to the City any right Concessionaire may now have or hereafter acquire to such damages and agrees to execute and deliver such further instruments of assignment as the City, from time to time, may request. Concessionaire, however, shall have the right to claim from the condemning authority all compensation that may be recoverable by Concessionaire on account of any loss incurred by Concessionaire in moving Concessionaire's merchandise, furniture, trade fixtures and equipment and the cost of restoring its personal property and improvements made by it to the Premises.

21. Default by Concessionaire.

21.1 Definition. If Concessionaire violates, breaches, or fails to keep or perform any term, provision, covenant, or any obligation of this Concession Agreement; or if Concessionaire files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Concessionaire's assets or if Concessionaire makes an assignment for the benefit of creditors, or if Concessionaire is adjudicated insolvent, or becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or liquidated, voluntarily or otherwise; then Concessionaire shall be deemed in default ("Default").

21.2 City Remedies. If Concessionaire has defaulted and such Default continues or has not been remedied to the reasonable satisfaction of the Superintendent within thirty (30) days after written notice thereof has been provided to Concessionaire, then the City shall have the following nonexclusive rights and remedies at its option: (a) to cure such default on Concessionaire's behalf and at Concessionaire's sole expense and to charge Concessionaire for all actual and reasonable costs and expenses incurred by the City in effecting such cure as an Additional Charge; (b) to terminate this Concession Agreement; provided, however, that if the nature of Concessionaire's obligation (other than monetary obligations and other than vacation or abandonment of the Premises) is such that more

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than thirty (30) days is required for performance, then Concessionaire shall not be in default if it commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

21.3 Reentry by City Upon Termination. Upon the termination of this Concession Agreement, the City may reenter the Premises, take possession thereof, and remove all persons therefrom, for which actions Concessionaire shall have no claim thereon or hereunder. Concessionaire shall be liable and shall reimburse the City upon demand for all actual and reasonable costs and expenses of every kind and nature incurred in retaking possession of the Premises. If the City retakes the Premises, the City shall have the right, but not the obligation, to remove therefrom all or any part of the personal property located therein and may place the same in storage at any place selected by the City, including a public warehouse, at the expense and risk of Concessionaire. The City shall have the right to sell such stored property, after reasonable prior notice to Concessionaire or such owner(s) after it has been stored for a period of thirty (30) days or more. The proceeds of such sale shall be applied, first, to the cost of such sale; second, to the payment of the charges for storage, if any; and third, to the payment of any other sums of money that may be due from Concessionaire to the City; the balance, if any, shall be paid to Concessionaire.

21.4 Vacation or Abandonment. If Concessionaire vacates or abandons the Premises in their entirety and fails to reoccupy them within thirty (30) days after the City (a) delivers a notice to Concessionaire's notice address set forth in Section 1.7, above, demanding such reoccupancy and (b) mails by certified or registered mail a copy of the notice to any forwarding address given by Concessionaire to the City in writing, Concessionaire shall be in default under this Concession Agreement.

21.5 City's Non-exclusive Remedies upon Termination due to Default of Concessionaire. Notwithstanding any reentry by the City and anything to the contrary in this Concession Agreement, in the event of the termination of this Concession Agreement due to the Default of Concessionaire, the liability of Concessionaire for all sums due under this Concession Agreement provided herein shall not be extinguished for the balance of the Term of this Concession Agreement. Concessionaire shall also be liable to the City for any other amount (excluding consequential or specific damages) necessary to compensate the City for all the detriment proximately caused by Concessionaire's failure to perform its obligations under this Concession Agreement or that in the ordinary course of things would

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be likely to result therefrom, including but not limited to, any costs or expenses incurred in maintaining or preserving the Premises after such Default, and any costs incurred in authorizing others the use and occupancy of the Premises and in preparing the Premises for such use and occupancy, and such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of Washington. The provisions of Section 21.5 shall survive the expiration or earlier termination of this Concession Agreement.

22. City's Remedies Cumulative; Waiver. The City's rights and remedies hereunder are not exclusive, but cumulative, and the City's exercise of any right or remedy due to a default or breach by Concessionaire shall not be deemed a waiver of, or alter, affect or prejudice any other right or remedy that the City may have under this Concession Agreement or by law or in equity. Neither the acceptance of rent nor any other act or omission of the City at any time or times after the happening of any event authorizing the cancellation or forfeiture of this Concession Agreement shall operate as a waiver of any past or future violation, breach or failure to keep or perform any covenant, agreement, term or condition hereof or to deprive the City of its right to cancel or forfeit this Concession Agreement, upon the written notice provided for herein, at any time that cause for cancellation or forfeiture may exist, or be construed so as to estop the City at any future time from promptly exercising any other option, right or remedy that it may have under any term or provision of this Concession Agreement.

23. Default by City. The City shall be in default if the City fails to perform its obligations under this Concession Agreement within thirty (30) days after its receipt of notice of nonperformance from Concessionaire; provided, that if the default cannot reasonably be cured within the thirty (30) day period, the City shall not be in default if the City commences the cure within the thirty (30) day period and thereafter diligently pursues such cure to completion. Upon the City's default, Concessionaire may pursue any remedies at law or in equity that may be permitted from time to time by the laws of the State of Washington.

24. Attorneys' Fees. If either party retains the services of an attorney in connection with enforcing the terms of this Concession Agreement, each party agrees to bear its own attorneys' fees and costs.

25. Access by City and National Park Service. The City and its agents shall have the right to enter the Premises at any reasonable

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time to examine the same, and to show them to prospective purchasers, lenders or tenants, and to make such repairs, alterations, improvements, additions or improvements to the Premises as the City may deem necessary or desirable. In addition, the National Park Service shall have the right to enter the Premises at any reasonable time to examine the same. If Concessionaire is not personally present to permit entry and an entry is necessary in an emergency, the City may enter the same by master key or may forcibly enter the same, without rendering the City liable therefor, except in the event of the City's gross negligence or intentional misconduct. Nothing contained herein shall be construed to impose upon the City any duty of repair or other obligation not specifically stated in this Agreement. Concessionaire shall change the locks to the Premises only through the City and upon paying the City for all actual and reasonable costs related thereto.

26. Holding Over. Unless otherwise agreed in writing by the parties hereto, any holding over by Concessionaire after the expiration of the Concession Agreement Term, whether or not consented to by the City, shall be construed as a tenancy from month-to-month on the terms and conditions set forth herein. Either party may terminate any holdover tenancy by written notice delivered to the other party not later than twenty (20) days prior to the end of the final month. If Concessionaire fails to surrender the Premises upon the expiration or termination of this Concession Agreement without the City's written consent, Concessionaire shall indemnify, defend and hold harmless the City from all losses, damages, liabilities and expenses resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant arising out of such failure. Concessionaire's obligations under this Section shall survive expiration or termination of this Concession Agreement.

27. Notices. Any notice, demand or request required hereunder shall be given in writing to the party's address set forth in Section 1.8 hereof by any of the following means: (a) personal service; (b) commercial or legal courier; or (c) registered or certified, first class mail, postage prepaid, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner as above provided. Notices shall be deemed to have been given upon the earlier of actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt, or the courier's receipt, except in the event of attempted delivery during the recipient's normal business hours at the proper address by an agent of a party or by commercial or legal courier or the U.S. Postal Service but refused acceptance, in which case notice shall be

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deemed to have been given upon the earlier of the day of attempted delivery, as evidenced by the messenger's affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused, or on the day immediately following deposit with such courier or, if sent pursuant to Subsection (c), forty-eight (48) hours following deposit in the U.S. mail.

28. Successors or Assigns. All of the terms, conditions, covenants and agreements of this Concession Agreement shall extend to and be binding upon the City, Concessionaire and, subject to the terms of Sections 17 and 18, their respective heirs, administrators, executors, successors and permitted assigns, and upon any person or persons coming into ownership or possession of any interest in the Premises by operation of law or otherwise.

29. Authority and Liability. Concessionaire warrants that this Concession Agreement has been duly authorized, executed and delivered by Concessionaire, and that Concessionaire has the requisite power and authority to enter into this Concession Agreement and perform its obligations hereunder. Concessionaire covenants to provide the City with evidence of its authority and the authorization of this Concession Agreement upon request.

30. Partial Invalidity. If any court determines that any provision of this Concession Agreement or the application hereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Concession 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 Concession Agreement shall be valid and be enforced to the fullest extent permitted by law.

31. Force Majeure. Neither the City nor Concessionaire shall be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such is due to any cause beyond its reasonable control, including, but not limited to an act of Nature, act of civil or military authority, fire, flood, windstorm, earthquake, strike or labor disturbance, civil commotion, delay in transportation, governmental delay, or war; provided, however, that the foregoing shall not excuse Concessionaire from the timely payment of the Concession Fee and Additional Charges due hereunder, when due.

32. Counterparts. The parties may execute this Concession Agreement

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in counterparts, which, taken together, constitute the entire Concession Agreement.

33. Headings. The section headings used in this Concession Agreement are used for purposes of convenience and do not alter in any manner the content of the sections.

34. Context. Whenever appropriate from the context, the use of any gender shall include any other or all genders, and the singular shall include the plural, and the plural shall include the singular. The use of the term National Park Service shall be deemed to include any delegated representative of the United States of America and/or the Department of the Interior under the USA Deed.

35. Execution by City and Concessionaire; Effective Date. Neither the City nor Concessionaire shall be deemed to have made an offer to the other party by furnishing the other party with a copy of this Concession Agreement with particulars inserted. No contractual or other rights shall exist or be created between the City and Concessionaire until all parties hereto have executed this Concession Agreement and the appropriate legislative authority approves it. This Concession Agreement shall become effective on the date (the "Effective Date") on which this Concession Agreement is executed by City and Concessionaire and approved by the Seattle City Council. The City shall have no liability to Concessionaire and shall have the right to terminate this Concession Agreement upon written notice to Concessionaire if this Concession Agreement is legislatively disapproved.

36. Time of Essence; Time Calculation Method. Time is of the essence with respect to this Concession Agreement. Except as otherwise specifically provided, any reference in this Concession Agreement to the word "day" means a "calendar day"; provided, however, that if the final day for any action required hereunder is a Saturday, Sunday or City holiday, such action shall not be required until the next succeeding day that is not a Saturday, Sunday or City holiday. Any reference in this Concession Agreement to the word "month" means "calendar month."

37. Standards. Concessionaire recognizes that, although it is operating its facilities as an independent operator, Seattle Parks and Recreation is organized and exists for the purpose of maintaining park and recreation facilities for the use and enjoyment of the general public. Concessionaire, its agents and employees, will devote their efforts toward rendering courteous service to the public as though they were employees of the City, with a view of adding to

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the enjoyment of the patrons of this recreational facility.

38. City's Control of Premises and Vicinity. All common and other facilities provided by the City are subject to the City's exclusive control and management by the City. Accordingly, provided that the City acts reasonably to minimize the impacts on use of and access to the Premises, the City may do any and all of the following (among other activities in support of Parks or other municipal objectives), all without incurring any liability whatsoever to Concessionaire:

38.1 Change of Vicinity. The City may increase, reduce, or change in any manner whatsoever the number, dimensions, and locations of the walks, buildings, landscaping, exhibit, service area, and parking areas in the vicinity of the Premises;

38.2 Traffic Regulation. The City may regulate all traffic within and adjacent to the Premises, including the operation and parking of vehicles of Concessionaire and its invitees, employees, and patrons.

38.3 Display of Promotional Materials. The City may erect, display, and remove promotional exhibits and materials and permit special events on property adjacent to and nearby the Premises.

38.4 Change of Businesses. The City may change the size, number, and type and identity of concessions, stores, businesses and operations being conducted or undertaken in the vicinity of the Premises.

39. Dispute Resolution. In the event of a dispute or misunderstanding between the parties regarding any term of this Agreement, the parties shall first attempt to resolve the dispute through amicable negotiations, if possible. If the parties are unable to resolve the dispute informally, either party may request mediation of the dispute. The parties shall agree on a mediator who shall conduct the mediation within sixty (60) days of the request, unless extended by agreement of the parties. The mediation shall be conducted under such terms and procedures as determined by the mediator. Any positions expressed by the parties and recommendations of the mediator shall not be admissible as evidence in any subsequent legal or alternative dispute resolution proceeding. Unless waived by the parties, an attempt to mediate the dispute is a condition precedent to pursuing any other legal remedy. If the dispute is not resolved by the mediation, either party shall be entitled to pursue any legal remedy available.

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40. City's Consent or Approval. Whenever the consent of the City or the Superintendent to any act to be performed by Concessionaire is required under this Concession Agreement (a) Concessionaire must obtain the consent or approval in writing expressly for purposes of this Concession Agreement, regardless of whether a consent or approval shall have been granted by the City in its regulatory, public utility, or other capacity; and (b) unless otherwise expressly stated herein, such consent or approval may be withheld in the City's sole discretion.

No permission, consent, or approval of the City or the Superintendent contained herein or given pursuant to this Concession 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.

41. Miscellaneous.

41.1 Entire Concession Agreement; Applicable Law. This Concession Agreement and the Exhibits attached hereto, and by this reference incorporated herein, set forth the entire agreement of the City and Concessionaire concerning the Premises, and there are no other agreements or understanding, oral or written, between the City and Concessionaire concerning the Premises. Any subsequent modification or amendment of this Concession Agreement shall be binding upon the City and Concessionaire only if reduced to writing and signed by them and concurred with in writing by the National Park Service. This Concession Agreement shall be governed by, and construed in accordance with the laws of the State of Washington.

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

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IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year indicated below.

CITY:

THE CITY OF SEATTLE

By: _____

Print Name/Title:_____

Date: _____

Department of Parks and Recreation

(Acknowledgement for City)

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of the Department of Parks and Recreation of THE CITY OF SEATTLE, the party that executed the foregoing instrument as City, and acknowledged said instrument to be the free and voluntary act and deed of said party, for the purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

_____
NOTARY PUBLIC in and for the State of Washington, residing at _____

My appointment expires_____

Print Name_____

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CONCESSIONAIRE:

SEATTLE COURTS SPORTS UNLIMITED, INC.

By: _____

Print Name/Title:_____

Date:_____

Seattle Court Sports Unlimited, Inc.

(Acknowledgement for Seattle Court Sports Unlimited, Inc.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____of _____, the entity that executed the foregoing instrument as _____; and acknowledged to me that he/she signed the same as the free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that he/she was authorized to execute said instrument for said entity.

WITNESS my hand and official seal the day and year in this certificate above written.

_____
NOTARY PUBLIC in and for the State of Washington, residing at _____

My appointment expires_____

Print Name_____

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Exhibit A

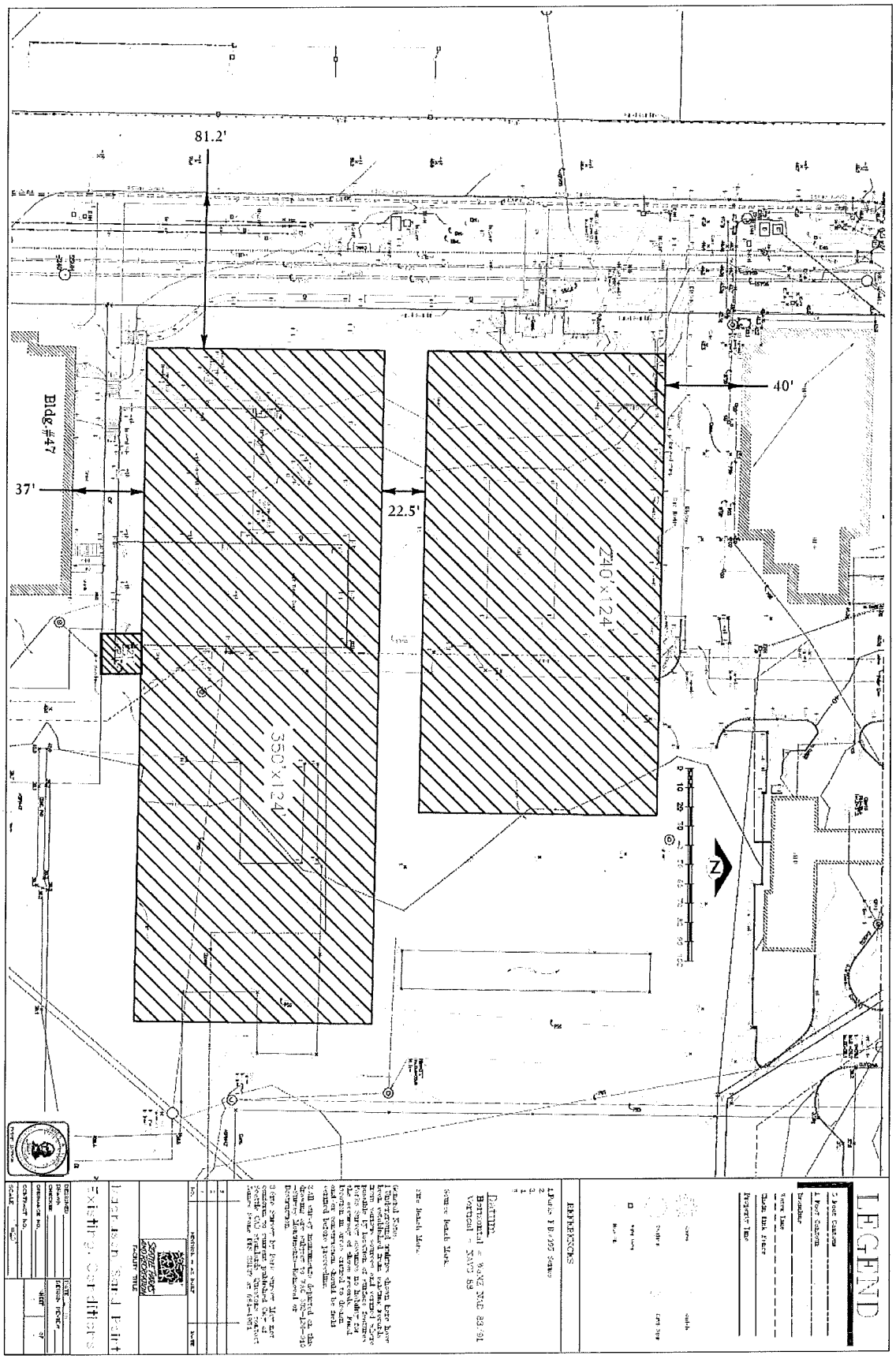

Exhibit B

Legal Description

PARCEL 6
Lot B

Parcel Containing Bldg. 41
Property Description
(revised 09/16/97)

That portion of the east one-half of the southwest quarter ($SW^{\frac{1}{4}}$) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east margin of said Sand Point Way NE, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89° 35' 06" E parallel with the south line of said Section 2 a distance of 489.94 feet, thence N 00° 19' 00" W a distance of 331.50 feet, thence N 23° 24' 06" W a distance of 323.73 feet, thence N 00° 01' 23" W a distance of 1211.94 feet to the **True Point Of Beginning** of this description, thence continuing N 00° 01' 23" W a distance of 410.18 feet, thence N 89° 42' 47" E a distance of 796.53 feet to the west boundary of a tract of land under the jurisdiction of the National Oceanic & Atmospheric Administration (NOAA), thence S 00° 02' 51" W on said NOAA boundary a distance of 276.81 feet to a concrete monument marking a boundary corner of Warren G Magnuson Park as established in 1975, thence continuing S 00° 02' 51" W on said Park boundary a distance of 159.18 feet, thence leaving said Park boundary S 89° 44' 09" W a distance of 546.98 feet, N 00° 15' 51" W a distance of 25.49 feet, thence S 89° 44' 09" W a distance of 248.90 feet to the **True Point Of Beginning**.

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EXHIBIT C: CONCEPTUAL PLAN FOR INITIAL IMPROVEMENTS
(INCLUDING REPLACEMENT PARKING) AND ROADWAY IMPROVEMENTS

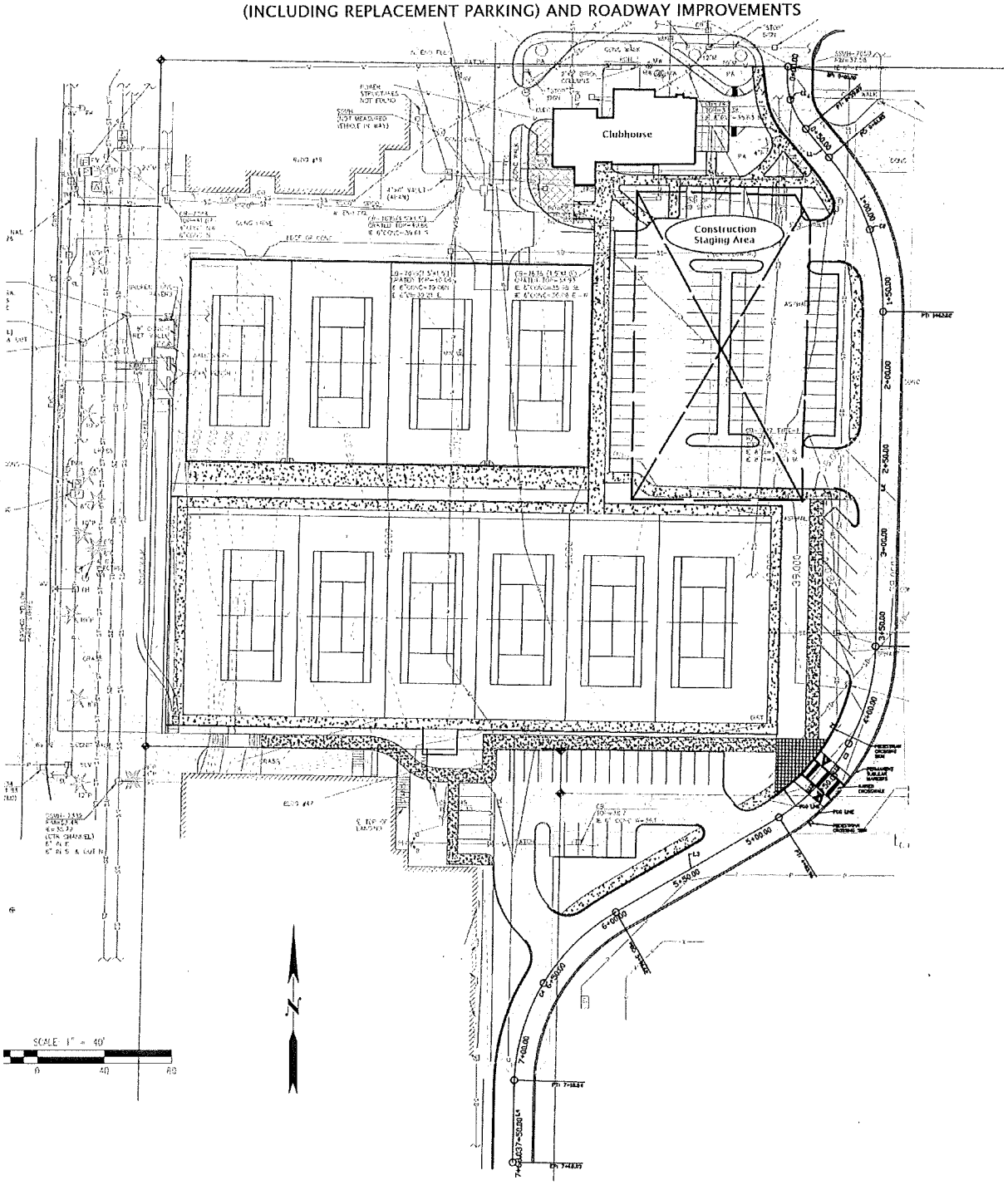

Exhibit C to DPR Magnuson SCSU Tennis Agreement ORD

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USA

Seattle Department of Parks and Recreation
Property Management
800 Maynard Avenue South, 3rd Floor
Seattle, Washington 98134

DOCUMENT TYPE
COVER SHEET

9905041194

Document Title: Quit Claim Deed

Reference number of related documents: Not Applicable

Grantor:
UNITED STATES OF AMERICA, acting by & through the Department of the Interior

Grantee:
THE CITY OF SEATTLE

Abbreviated Legal Description:
Portions of Section 2, Township 25 N., Range 4 E, WM

Assessor's PropertyTax Parcel Account Number(s):
Portion of 022504-9001
Portion of 022504-9061

9905041194 10:21:00 AM KING COUNTY RECORDS REC'D THIS 34.00

E1682938 05/04/99 .00 .00

Deed

COUNCIL CLERK

Portion, Naval Station Puget Sound (Sand Point)
King County, Washington

QUIT CLAIM DEED

THE UNITED STATES OF AMERICA, acting by and through the Secretary of the Interior, acting by and through the Director, National Park Service, under and pursuant to the power and authority contained in the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 337), as amended, and particularly as amended by Public Law 485, 91st Congress, and regulations and orders promulgated thereunder (hereinafter designated "Grantor"), for and in consideration of the perpetual use of the hereinafter described premises as and for public park and public recreation area purposes, by the City of Seattle, Washington (hereinafter designated "Grantee"), does hereby convey and quit claim to Grantee, and to its successors and assigns, all Grantor's right, title and interest, together with all after-acquired title of the Grantor therein, in and to property containing approximately ninety three and one tenth (93.1) acres, including improvements appurtenant thereto, located in King County, Washington, and identified as Parcel 1 - Lots A, B, C, D, E, Parcel 3 - Lot E, Parcel 6 - Lots A, B, and C, and Parcel 6 - Lots D, E, and F, and Parcel 6B western segment described in Exhibit A attached herein.

The herein described property is conveyed by the Grantor to the Grantee subject to the reservations, exceptions, restrictions, conditions and covenants herein expressed and set forth unto the Grantee, its successors and assigns, forever.

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The Grantor expressly excepts and reserves all remaining oil, gas, and mineral rights and deposits in said land to the Grantor, without rights to surface entry, from the hereinbefore described property, in accordance with all applicable laws.

Pursuant to CERCLA, 42 U.S.C. Section 9620(h), the United States Department of the Navy prepared an Environmental Baseline Survey (EBS), revised March 1, 1996, for the herein-described property. On May 16, 1996, the State of Washington issued a No Further Action Determination. A *Finding of Suitability to Transfer* (FOST) for Sand Point was approved by the United States Department of the Navy on April 15, 1998, and Addendum One to the FOST was approved by the United States Department of the Navy on August 25, 1998. Grantee acknowledges that it has received copies of the EBS and FOST, together with all documents attached thereto, and has received a copy of Addendum One to the FOST. Remedial action taken by the Navy is set forth in the Base Realignment and Closure Cleanup Plan (BCP), Close Out Version, dated "revised February 28 1996".

Pursuant to CERCLA, 42 U.S.C. Section 9620(h), the United States covenants and warrants to Grantee, its successors and assigns, that all remedial action, response action or corrective action necessary to protect human health and the environment with respect to any hazardous substance remaining on the property has been taken prior to the date of said transfer.

Pursuant to CERCLA, 42 U.S.C. Section 9620(h), the Grantor, on behalf of the Department of Navy, covenants and warrants to grantee, its successors and assigns that any additional remedial action found to be necessary to protect human health and the environment with respect to any hazardous substance

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stored, disposed of, or released on the herein described property prior to the date of transfer shall be conducted by the United States.

Pursuant to CERCLA 42 U.S.C. Section 9620(h) the Grantor reserves a right of access to the property in any case in which a response action or corrective action is found to be necessary after the date of this conveyance for the purpose of, but not limited to, monitoring, investigation, sampling, testing, or removal of any hazardous substance(s). The Grantee shall be provided reasonable notice of any action requiring access to the property and the Grantor shall take all reasonable steps to minimize the disruption of the Grantee's use of the property.

For the purposes of this deed, the term "hazardous substance" shall mean any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any Federal or Washington State environmental or safety law.

The Grantee, by its acceptance of this deed does covenant and agree for itself, and its successors and assigns, forever, as follows:

Recreation Use Covenants

1. This property shall be used and maintained for public park and recreation purposes in perpetuity, as set forth in the program of utilization and plan contained in the December 1996, application submitted by the City of Seattle for the *Acquisition of a Portion of the Naval Station Puget Sound* and subsequent amendments thereto, a copy of which is on file with the Seattle City Clerk. Said program and plan may be amended from time to time at the written request of either the Grantor or Grantee, with the written concurrence of the other party, and such amendments will be added to and become a part of the original application.

2. The Grantee shall, within six (6) months of the date of the deed of conveyance, erect and maintain a permanent sign or marker near the point of principal access to the conveyed area indicating that the property is a park or recreation area and has been acquired from the Federal Government for use by the general public.

3. The property shall not be sold, leased, assigned or otherwise disposed of except to another eligible governmental agency without the prior approval of the Secretary of the Interior in writing. Any such disposition shall assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions contained herein. However, nothing in this provision shall preclude the Grantee from providing recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior. The Grantee, it's successor or assign shall provide written notice to the State of Washington Department of Ecology or successor agency of any intent to convey any interest in portions of the property identified in Section 8.

4. From the date of this conveyance, the Grantee shall submit biennial reports to the Secretary of the Interior, setting forth the use made of the property during the preceding two-year period, and other pertinent data establishing its continuous use for the purposes set forth above, for ten consecutive reports and as further determined by the Secretary of the Interior.

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5. The Grantee further agrees to comply with the requirements of Public Law 90-480 (82 Stat. 718) the Architectural Barriers Act of 1968 as amended by Public Law 91-205 of 1970 (84 Stat. 49) to assure that facilities developed on this property are accessible to the physically handicapped; and, further assure in accordance with Public Law 93-112 the Rehabilitation Act of 1973 (87 Stat. 394) that no otherwise qualified handicapped individual shall solely by reasons of his handicap be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity in effect on this property; and agrees to comply with the provisions of Title III of the Age Discrimination Act of 1975, as amended (Public Law 94-135; 45 C.F.R. Part 90) prohibiting discrimination on the basis of age in programs and activities conducted on this property.

6. As part of the consideration for this Deed, the Grantee covenants and agrees that: (1) the program for or in connection with which this Deed is made will be conducted in compliance with, and the Grantee will comply with all requirements imposed by or pursuant to the regulations of the Department of the Interior as in effect on the date of this Deed (43 C.F.R. Part 17) issued under the provisions of Title VI of the Civil Rights Act of 1964; (2) this covenant shall be subject in all respects to the provisions of said regulations; (3) the Grantee will promptly take and continue to take such action as may be necessary to effectuate this covenant; (4) the United States shall have the right to seek judicial enforcement of this covenant; (5) the Grantee will insure that each other person (any legal entity) who, through contractual or other arrangements with the Grantee is authorized to provide services or benefits under said program complies with the same obligations as those imposed upon the Grantee by this covenant (6) this covenant shall run with the land hereby conveyed, and shall in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of, and in favor of the Grantor and enforceable by the Grantor against the Grantee; and (7) the Grantor expressly reserves a right of access to, and entrance upon, the above described property in order to determine compliance with the terms of this conveyance.

7. As to the obligations in Section 1 through 6, the Grantee shall hold harmless, defend and indemnify the United States, its employees, agents, and representatives from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that arises from the Grantee's or the Grantee's agent's use or occupancy of the property and/or the Grantee's default of the terms of this deed. Nothing in this Section 7 shall be construed in any way to limited the United States obligations pursuant to CERCLA, 42 U.S.C. Section 9620(h), any other law, or this deed, including but not limited to the obligation that any additional remedial action, response action or corrective action found to be necessary to protect human health and the environment with respect to any hazardous substances stored, disposed of, or released on the property prior to the date of transfer shall be conducted by the United States.

Hazardous Materials Covenants

8. Portions of the conveyed property have been determined to contain hazardous substances that exceed standards established under the State of Washington Model Toxics Control Act (MTCA). The following restrictive covenants are imposed on the identified portions of the conveyed property. As between Grantee, its successors and assigns, and the United States, a release requiring remediation, including testing and investigations, resulting from the violation of a restriction required by this section by the Grantee or any of its successors or assigns is the responsibility of such Grantee, successor or assign.

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8.1. The use of Building 2, a 144,000 s.f. hangar building located on Parcel 1, Lot B as described in Exhibit A, is restricted to uses which do not penetrate the building's concrete slab. Soils sampling under the slab reveal metals above MTCA levels.

8.2. A grass landscaping strip located between Building 30, a 80,066 s.f. hangar building located on Parcel 6, Lot A as described in Exhibit A, and a parking area north of Building 30 is restricted to its current landscaped use. Soils sampling of the area revealed metals above MTCA levels.

8.3. The use of a paved tarmac east of Building 11, a 62,000 s.f. public works office and shop building located on Parcel 1, Lot A is restricted to uses which do not penetrate the paved tarmac. Petroleum was detected in concentrations exceeding MTCA levels.

8.4. Prior to willingly conducting a use inconsistent with a restrictive covenant contained in this Section 8, the Grantee, or its assignee or successors shall notify in writing the Grantor and the State of Washington Department of Ecology, or successor agency and obtain approval of the proposed change in use in accordance with WAC 173-340-440(5) or any amendment thereto. The Grantor shall take any action necessary with regards to this Section 8 to carry out an approval or other decision of the State of Washington Department of Ecology or successor agency.

8.5. Grantee, or its successor or assign, shall provide notice to the State of Washington Department of Ecology or successor agency of the party's intent to convey any interest in portions of the property identified in this Section 8.

8.6. If the Grantee is in default of the conditions and terms of this Section 8, Grantee shall hold harmless, defend, and indemnify the United States, its employees, agents, and representatives from and against any suit, claim, demand, or action, liability of judgement, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) to the extent caused by such default.

8.7. The Grantor for itself and its successors and assigns hereby grants to the Washington State Department of Ecology or successor agency, and its designated representatives, the right to enter the property at reasonable times for the purpose of evaluating compliance with a cleanup action plan and other required plans relating to this Section 8, including the right to take samples, inspect any remedial actions taken at the site, and to inspect records.

9. The Grantee acknowledges that it has received the EBS and the FOST and its attachments. The Grantee acknowledges that it has had the opportunity to inspect the physical condition and current level of environmental hazards on the property and to determine the suitability of the property as to safety for the Grantee's intended use, human health, and the environment in general.

10. The Grantee agrees to indemnify, defend, save and hold harmless the Grantor, and Grantor employees, officers, representatives, attorneys and agents from and against any and all debts, duties, obligations, liabilities, law suits, claims, demands, causes of action, damages, losses, costs, and expenses (including, without limitation, costs associated with any investigation, monitoring, sampling, testing, or removal of hazardous substance(s), attorney fees and expenses, and court costs) to the extent caused by the release of any hazardous substance(s) brought onto the herein described property after the date of this deed and while the property was in the possession and/or control of the Grantee. However, nothing in this Section 10 shall be construed to limit in any way the United States' obligations pursuant to CERCLA, 42 U.S.C. Section 9620(h), any other law, or this deed, including but not limited to the obligation that any additional remedial action, response or corrective action found to be necessary to protect human health and the environment with respect to any hazardous substances stored, disposed or, or released on the property prior to the date of transfer shall be conducted by the United States.

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Lead Based Paints and Asbestos Covenants

11. The Grantee is hereby informed and does acknowledge Grantor's representation that certain buildings on the property have been found to contain lead-based paints as indicated in the EBS and FOST and attachments. The scope of this Section 11, and the meaning of "applicable property," is specifically limited to only the building interiors of those portions of the property on which the EBS, or the FOST or its attachments, identified that lead-based paint was present. The presence of lead-based paints within these structures may affect their use for residential purposes in compliance with 24 CFR Part 35, Subpart H. A lead warning statement is attached as Exhibit B. The Grantee acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paints or lead-based paint hazards prior to the execution of this conveyance. The Grantee covenants that, if required by applicable federal or state law and in compliance with such law, Grantee will provide for an inspection, abatement, and/or elimination of any lead-based paint hazard on a portion of the applicable property (as defined and limited by this Section 11) prior to the occupancy or use of said portion of the property by successors or assigns. The Grantee covenants and agrees to be responsible for any remediation of lead-based paint or lead-based paint hazards on the applicable property (as defined and limited by this Section 11) found to be necessary and required by federal or state law after the date of conveyance. The Grantee covenants and agrees to indemnify and hold harmless the Grantor, its agents and employees against any claims for personal injury to the extent caused by exposure, after the date on which the City took control of the relevant portion of the property, to lead-based paint on the applicable property (as defined and limited by this Section 11). Should, in the future, lead-based paint present in, on, or under the property prior to the date of transfer be considered a CERCLA release, nothing in this Section 11 shall be construed to limit in any way the United States' obligations pursuant to CERCLA, 42 U.S.C. Section 9620(h), any other law, or this deed, including but not limited to the obligation that any additional remedial action, response or corrective action found to be necessary to protect human health and the environment with respect to any hazardous substances stored, disposed or, or released on the property prior to the date of transfer shall be conducted by the United States.

12. The Grantee is hereby informed and does acknowledge Grantor's representation that asbestos and asbestos containing materials have been found on the property as described in the FOST and its attachments. The scope of this Section 11, and the meaning of "applicable property," is specifically limited to only the building interiors of those portions of the property on which the EBS, or the FOST or its attachments, identified that asbestos or asbestos containing material was present. The Grantee covenants and agrees that in its use and occupancy of the applicable property (as defined and limited by this Section 12), it will comply with all Federal, State and local laws relating to asbestos; and that Grantor assumes no liability for damages for personal injury, illness, disability or death, to the Grantee or to any other person, including members of the general public, to the extent caused by the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever, after the date on which the City took control of the relevant portion of the property, with asbestos on the applicable property (as defined and limited by this Section 12), whether Grantee has properly warned or failed properly to warn the individual(s) injured. The Grantee agrees to be responsible for any future remediation of asbestos found to be necessary and required by federal or state law on the applicable property (as defined and limited by this Section 12). Should, in the future, asbestos present in, on, or under the property prior to the date of transfer be considered a CERCLA release, nothing in this Section 12 shall be construed to limit in any way the United States' obligations pursuant to CERCLA, 42 U.S.C. Section 9620(h), any other law, or this deed, including but not limited to the obligation that any additional remedial action, response or corrective action found to be necessary

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to protect human health and the environment with respect to any hazardous substances stored, disposed or, or released on the property prior to the date of transfer shall be conducted by the United States.

Historic Resource Covenant

13. The following parcels as described in Exhibit A are contained within Sand Point Historic District; Parcel 1, Lots A, B, C, D, and E, Parcel 3, Lot B, and Parcel 6, Lots D and E. The described portions of the following parcels, fully described in Exhibit A, are also included within the Sand Point Historic District; the westerly 300 feet of Parcel 6, Lot A, the westerly 410 feet of Parcel 6, Lot B and that portion of the Lot B within 50 feet and containing Building 41, and the southwest corner of Parcel 6, Lot C, containing an area 110.22 feet by 147.3[illegible] feet. The Grantee hereby covenants on behalf of itself, heirs, successors, and assigns at all times to the United States to maintain property described within this Section in accordance with the Historic Preservation Covenant, attached hereto as Exhibit C. Incorporation of this Historic Preservation Covenant is made pursuant to the October 1997 Programmatic Agreement among the Department of the Navy, The Advisory Council on Historic Preservation, and The Washington State Historic Preservation Officer Regarding: Base Closure and Disposal of the Naval Station Puget Sound, Sand Point, a copy of which can be located at the Office of Sand Point Operations, 7400 Sand Point Way NE, Seattle, WA 98115.

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Reversion and Default

14. The failure of the Grantee, or of its successors and assigns, to comply with any of the conditions and covenants contained in this deed shall constitute a default if such default shall continue, after written notice from the Grantor specifically identifying the nature of the default, for a period of not less than ninety (90) days, or such longer period as may be reasonably required to cure the default, provided the Grantee commences the cure within said ninety (90) days after the Grantor's written notice of default and covenants to diligently complete the cure within such reasonable period. In the event the Grantee is in default of any covenant or condition contained in this deed then upon failure to eliminate, rectify, cure, or commence action to cure said breach within the time agreed upon , all right, title, and interest in and to said premises shall, at the Grantor's option revert to and become the property of the Grantor. In addition to all other remedies for such breach relating to the use of the property for park and recreation purposes, the preservation of identified historic resources, or related to nondiscrimination, the Grantee, its successors and assigns, at the Grantor's option, shall forfeit all right, title, and interest in any and all of the tenements, hereditaments, and appurtenances thereunto belonging. With regard thereto, the Grantee shall execute a deed, as directed by the Grantor, conveying all interest in the premises and improvements thereon to the Grantor. The failure of the grantor to require in any one or more instances complete performance of any of the conditions or covenants shall not be construed as a waiver or relinquishment or such future performance, but the obligation of the Grantee, its successors and assigns, with respect to such future performance shall continue in full force and effect.

15. The Grantee, by its acceptance of this deed, covenants and agrees that in the event the Grantor exercises its option to revert all right, title, and interest in the property to the Grantor, or the Grantee voluntarily returns title to the property in lieu of a reverter, then the Grantee shall provide protection to and maintenance of said property at all times until such time as the title is actually reverted or returned to and accepted by the Grantor, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the General Services Administration in its regulations FPMR 101-47.402 in effect as of the date of this deed.

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IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name and on its behalf on this 17 day of MARCH 1999.

UNITED STATES OF AMERICA
Acting by and through the Secretary of the Interior

By _____
John J. Reynolds
Regional Director, Pacific West
National Park Service

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN FRANCISCO)

On this 17 day of March 1999, before me, the subscriber, personally appeared John J. Reynolds to be known and personally known to me to be the Regional Director, Pacific West, National Park Service, of the United States of America, acting by and through the Secretary of the Interior, a governmental agency of the United States of America, and known to me to be the same person described in and who executed the foregoing instrument as such Regional Director, Pacific West aforesaid, as the act and deed of the United States, for and on behalf of the Secretary of the Interior, and he acknowledged that he executed the foregoing instrument for and on behalf of the United States of America, for the purposes and uses therein described.

Witness my hand and official seal.

M. DOLORES GUILLORY
Commission # 1123228
Notary Public — California
San Francisco County
My Comm. Expires Jan 20, 2001

M. Dolores Guillory
NOTARY PUBLIC

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GRANTEE
City of Seattle, Washington

By _____
Kenneth R. Bounds,
Superintendent
Department of Parks and Recreation

Date MARCH 25, 1999

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 25th day of March, 1999, before me, the undersigned notary, the subscriber, personally appeared and being the duly authorized official of the City of Seattle, Washington and known to me to be the same person described herein and who executed the foregoing acceptance of said on behalf of the City of Seattle, Washington, for the purposes and uses therein described.

Witness my hand and official seal.

_____
NOTARY PUBLIC
Expiration Oct 16, 2000
State of Washington

JANE HOOD
NOTARY PUBLIC
STATE OF WASHINGTON

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Exhibit A
PARCEL 1 - Lot A

Those portions of the southwest quarter (SW¼) of the northwest quarter (NW¼) of Section 2, TWP 25N, RNG 04E and Govt. Lots 1 and 2 in said Section, together with the 1st Class Shore Lands adjacent, abutting and attached thereto, as acquired by the U. S. Navy on behalf of the United States of America described as follows:

Commencing at the northwest corner of said Section 2, thence S 89°43'27" E on the north line of said Section a distance of 528.79 feet to the east margin of Sand Point Way NE (formerly referred to as the James Kiefer County Rd. No. 1283), and the **True Point of Beginning**; thence S 30°28'08" E on said east margin a distance of 360.75 feet to a point of curvature in said east margin of which the radial center bears S 59° 31' 52" W at a distance of 2336.20 feet, thence continuing on said east margin on a curve concave to the south and west through a central angle of 16°31'03" an arc distance of 673.49 feet, thence S 13° 57' 05" E on said east margin a distance of 225.43 feet, to a point of intersection with the northerly boundary of a parcel of land under the jurisdiction of the United States Department of Commerce (NOAA) as surveyed and described in a record of survey drawing titled "Boundary Survey for the National Oceanic and Atmospheric Administration N.O.A.A. Western Regional Center Access Road", project No. 96545.00 by Penhallegon Associated Consulting Engineers, Inc., said point being identified by a 5/8" iron rebar with cap marked P.A.C.E., L.S. 11691 and herein referred to as rebar marker thence leaving said east margin and along a line adjoining said N.O.A.A. property the following courses and distances, S 30° 43' 19" E a distance of 199.50 feet to a rebar marker, thence S 85° 28' 44" E a distance of 87.72 feet to a rebar marker, thence S 71° 12' 22" E a distance of 46.87 feet to a rebar marker, thence S 76° 54' 27" E a distance of 20.06 feet to a rebar marker, thence S 62° 39' 42" E a distance of 33.69 feet to a rebar marker, thence N 00° 01' 44" W a distance of 485.07 feet to a rebar marker, thence N 89° 59' 11" E a distance of 252.00 feet to a rebar marker, thence N 25° 28' 42" E a distance of 277.22 feet to the Inner Harbor Line of the Lake Washington Shore Lands as established by the State of Washington Commissioner of Public Lands and according to the Maps thereof on file in Olympia, Washington and a point of depature from the said line adjoining N.O.A.A., thence N 50° 40' 00" W on said Inner Harbor Line a distance of 989.04 feet to the intersection with the north line of said Section 2, thence N 89° 43' 27" W on said north line a distance of 380.23 feet to the True Point of Beginning.

PARCEL 2 - Lot B

That portion of the northeast quarter (NE¼) of the southwest quarter (SW¼), the southwest quarter (SW¼) of the northwest quarter (NW¼) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north

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margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE, thence N 89° 57' 38" E a distance of 94.91 feet, thence S 00° 01' 23" E a distance of 95.37 feet, thence N 89° 42' 47" E a distance of 329.93 feet, thence N 0°01'33" W a distance of 945.00 feet to the **True Point of Beginning,** thence continuing N 0°01'33" W a distance of 455.06 feet, thence S 89°54'15" W a distance of 382.55 feet, thence S 00°07'23" E a distance of 162.10 feet, thence S 89°28'49" W a distance of 130.88 feet, thence S 28°13'40" E a distance of 300.77 feet to a point of curvature the radial center of which bears N 61°46'20" E at a distance of 50.00 feet, thence on said curve concave to the northeast through a central angle of 61°48'42" an arc distance of 53.94 feet, thence N 89°57'38" E a distance of 326.93 feet to the **True Point of Beginning**.

PARCEL 1 - Lot C

That portion of the northeast quarter (NE$\frac{1}{4}$) of the southwest quarter (SW$\frac{1}{4}$), the southwest quarter (SW$\frac{1}{4}$) of the northwest quarter (NW$\frac{1}{4}$) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE, thence N 89° 57' 38" E a distance of 94.91 feet, thence S 00° 01' 23" E a distance of 95.37 feet, thence N 89° 42' 47" E a distance of 329.93 thence N 0°01'33" W a distance of 1400.00 feet, thence S 89°54'15" W a distance of 382.55 feet to the **True Point of Beginning**, thence S 78° 17' 54" W a distance of 116.65 feet to a point of curvature the radial center of which bears S 11° 42' 06" E at a distance of 118.61 feet, thence on said curve concave to the southeast through a central angle of 39° 41'40" an arc distance of 82.17 feet to a non-tangent cusp, thence leaving said curve S 28° 13' 40" E, a distance of 110.65 feet, thence N 89°28'49" E a distance of 130.88 feet, thence N 00° 07' 23" W a distance of 162.10 feet to the **True Point of Beginning**.

PARCEL 1 - Lot D

That portion of the northeast quarter (NE$\frac{1}{4}$) of the southwest quarter (SW$\frac{1}{4}$), the southwest quarter (SW$\frac{1}{4}$) of the northwest quarter (NW$\frac{1}{4}$) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point

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Way NE, thence N 00° 48' 49" W on said east margin a distance of 304.41 feet to a point of curvature in said east margin the radial center of which bears S 89° 11' 11" W at a distance of 612.25 feet, thence north and west on said east margin on a curve concave to the south and west through a central angle of 26°51'36" an arc distance of 287.02 feet to the **True Point of Beginning**, thence leaving said east margin N 89° 57' 38" E a distance of 196.07 feet, thence N 00° 01' 33"W a distance of 230.96 feet, thence S 89° 57' 38" W a distance of 24.12 feet to a point of curvature of which the radial center bears N 00°02'22" W at a distance of 90.00 feet, thence continuing on the curve concave to the north and east through a central angle of 61°48'42" an arc distance of 97.10 feet, thence N 28° 13' 40" W a distance of 388.18 feet to a point of curvature of which the radial center bears S 61°46'20" W at a distance of 13.89 feet, thence continuing on the curve concave to the south an through a central angle of 127°02'10" arc distance of 30.80 feet to a point of compound curvature of which the radial center bears S 65°15'50" E at a distance of 221.89 feet, thence continuing on the curve concave to the southeast through a central angle of 21°40'59" an arc distance of 80.10 feet to a point of compound curvature of which the radial center bears S 85°56'49" E at a distance of 440.08 feet, thence continuing on the curve concave to the east through a central angle of 41°28'44" an arc distance of 318.60 feet to a non-tangent cusp, thence N 89°56'55" W a distance of 83.74 feet to a point on a curve on the east margin of Sand Point Way NE, the radial center of which bears N 66°27'12" E at a distance of 533.90 feet, thence continuing southeasterly on said east margin on the curve concave to the north and east through a central angle of 04°58'40" an arc distance of 46.38 feet, thence continuing on said east margin S 28°31'28" E a distance of 171.16 feet to a point of curvature in said east margin of which the radial center bears S 61°28'32" W at distance of 612.25 feet, thence continuing on said east margin, on a curve concave to the south and west through a central angle of 00°51'03" an arc distance of 9.09 feet to the **True Point of Beginning.**

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PARCEL 1 - Lot E

That portion of the northeast quarter (NE¼) of the southwest quarter (SW¼), the southwest quarter (SW¼) of the northwest quarter (NW¼) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 212.12 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE, thence N 00° 48' 49" W on said east margin a distance of 274.35 feet to the **True Point of Beginning**, thence N 89° 57' 38" E a distance of 139.78 feet, thence N 00° 01' 33"W a distance of 187.00 feet, thence S 89° 57' 38" W a distance of 14.53 feet, thence N 00° 01' 33"W a distance of 139.43 feet, thence S 89° 57' 38"W a distance of 196.07 feet to a point on a curve in the east margin of Sand Point Way NE, the radial center of which bears S 62° 19' 35" W at a distance of 612.25 feet, thence south and east on said east margin on a curve concave to the southwest through a central angle of 26°

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51' 34" an arc distance of 287.02 feet, thence continuing on said east margin S 00° 48' 49" E a distance of 70.73 feet to the **True Point of Beginning**.

PARCEL 3 - Lot E

That portion of the northeast quarter (NE¼) of the southwest quarter (SW¼), the southwest quarter (SW¼) of the northwest quarter (NW¼) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE and the **True Point of Beginning**, thence N 89° 57' 38" E a distance of 94.91 feet, thence S 00° 01' 23" E a distance of 95.37 feet, thence S 89° 42' 47" W a distance of 93.59 feet to the east margin of Sand Point Way NE, thence N 00° 48' 49" W on said east margin a distance of 95.79 feet to the **True Point of Beginning**.

PARCEL 6 - Lot A

That portion of the northeast quarter (NE¼) of the southwest quarter (SW¼), the southwest quarter (SW¼) of the northwest quarter (NW¼) and Govt. Lot 2 in Section 2, TWP 25N, RNG 04E, as acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the southwest corner of said Lot 2, accepted as being the same as the intersection of the centerline of Sand Point Way NE with the production east of the north margin of NE 75th Street, thence S 00° 48' 49" E on said centerline a distance of 171.45 feet, thence N 89° 11' 11" E a distance of 40.00 feet to the east margin of Sand Point Way NE, thence N 89° 57' 38" E a distance of 94.91 feet, thence S 00° 01' 23" E a distance of 95.37 feet, thence N 89° 42' 47" E a distance of 404.93 feet to the **True Point of Beginning**, thence continuing N 89° 42' 47" E a distance of 690.05 feet to the west boundary of a tract of land under the jurisdiction of the National Oceanic & Atmospheric Administration (NOAA), thence N 00° 02' 51" E on said NOAA boundary a distance of 460.89 feet to a concrete monument marking an angle point in the NOAA boundary, thence N 89° 57' 32" W on said NOAA boundary a distance of 690.63 feet to a concrete monument with metal disk stamped "U.S. NAVY #10", thence S 00° 01' 33" E a distance of 464.84 feet to the **True Point of Beginning**.

PARCEL 9 - Lot B

That portion of the east one-half of the southwest quarter (SW¼) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

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Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east margin of said Sand Point Way NE, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89° 35' 06" E parallel with the south line of said Section 2 a distance of 489.94 feet, thence N 00° 19' 00" W a distance of 331.50 feet, thence N 23° 24' 06" W a distance of 328.73 feet, thence N 00° 01' 23" W a distance of 1211.94 feet to the **True Point Of Beginning** of this description, thence continuing N 00° 01' 23" W a distance of 410.18 feet, thence N 89° 42' 47" E a distance of 796.53 feet to the west boundary of a tract of land under the jurisdiction of the National Oceanic & Atmospheric Administration (NOAA), thence S 00° 02' 51" W on said NOAA boundary a distance of 276.81 feet to a concrete monument marking a boundary corner of Warren G Magnuson Park as established in 1975, thence continuing S 00° 02' 51" W on said Park boundary a distance of 159.18 feet, thence leaving said Park boundary S 89° 44' 09" W a distance of 546.98 feet, N 00° 15' 51" W a distance of 25.49 feet, thence S 89° 44' 09" W a distance of 248.90 feet to the **True Point Of Beginning**.

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PARCEL 6 - Lot C

All those portions of Section 2, TWP 25N, RNG 04E, W.M., acquired the U. S. Navy on behalf of the United States of America described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11; TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand Point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east margin of said Sand Point Way NE, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89° 35' 06" E parallel with the south line of said Section 2 a distance of 489.94 feet to the **True Point Of Beginning** of this description, thence continuing S 89° 35' 06" E a distance of 1015.52 feet, thence S 01° 17' 22" a distance of 32.30 feet to the north boundary of a parcel of land under the jurisdiction of the United States Department of Interior (BRD), thence N 88° 39' 59" E on said BRD boundary a distance of 938.55 feet to the east boundary of Warren G. Magnuson Park as described in A.O. 105244, thence N 00° 01' 56" E on said Park boundary a distance of 699.25 feet to a concrete monument with metal disk set by the U. S. Navy, thence N 85° 48' 34" W on said Park boundary a distance of 1076.96 feet to a concrete monument with metal disk set by the U. S. Navy, thence N 31° 56' 06" W on said Park boundary a distance of 408.95 feet to a concrete monument with metal disk set by the U. S. Navy, thence N 00°02'51" E on said Park boundary a distance of 711.51 feet, thence S 89° 44' 09" W a distance of 546.98 feet, thence N 00° 15' 51" E a distance of 412.92 feet, thence N 89°46'57" W a distance of 97.67 feet, thence S 00° 00' 57" W a distance of 210.01 feet, thence S 43° 40' 36" E a distance of 172.10 feet, thence S 00° 00' 41" E a distance

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of 348.04 feet, thence S 67°06'04" W a distance of 180.33 feet, thence S 23° 24' 06" E a distance of 348.19 feet, thence S 01° 14' 46" W a distance of 183.51 feet, thence S 89°41'00" W a distance of 110.22 feet, thence S 00° 19' 00" E a distance of 147.34 feet to the **True Point Of Beginning.**

PARCEL 6 - Lot D

That portion of the east one-half of the southwest quarter (SW¼) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east margin of said Sand Point Way NE, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89° 35' 06" E parallel with the south line of said Section 2 a distance of 489.94 feet, thence N 00° 19' 00" W a distance of 331.50 feet, thence N 23° 24' 06" W a distance of 328.73 feet, thence N 00° 01' 23" W a distance of 1211.94 feet to the **True Point Of Beginning** of this description, thence N 89° 44' 09" E a distance of 248.90 feet, thence S 00° 18' 51" E a distance of 438.41 feet, thence N 89° 46' 57" W a distance of 250.75 feet, thence N 00° 01' 23" W a distance of 436.31 feet to the **True Point Of Beginning.**

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PARCEL 6 - Lot E

That portion of the east one-half of the southwest quarter (SW¼) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand Point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 40.01 feet to a point on the east marginal boundary of said Sand Point Way NE, and the **True Point Of Beginning** of this description, said point being 60.00 feet north of the south line of said Section 2 as measured at right angles thereto, thence continuing S 89°35'06" E parallel with said Section line a distance of 429.94 feet, thence N 00°19'00" W a distance of 158.64 feet, thence S 89° 41' 00" W a distance of 267.55 feet to a point of curvature of a curve concave to the north and east of which the radial center bears N 00° 19' 00" W at a distance of 165.00 feet, thence west and north on said curve through a central angle of 89°30'11" an arc distance of 257.75 feet to the east marginal boundary of Sand point Way NE, thence S 00° 48' 49" E on said east marginal boundary a distance of 304.73 feet to the **True Point Of Beginning.**

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PARCEL 6 - Lot F

That portion of the Evergreen Addition to the City of Seattle as recorded in Vol. 12, pg. 66, of the Records of King Co., said Tract being acquired by the War Department through Civil Action 388, together with those portions of the streets and avenues in said Addition as vacated by V.O. 71498, bounded by the following description:

Commencing at the SE corner of Block 2 of said Evergreen Add., thence N 00° 48' 49" W on the east line of said Block 2, a distance of 239.34 feet to the north line of said Addition, being the same as the Section line common to Sections 2 and 11, Twp 25N, Rng 4E, W.M., thence N 89°35'05" W on said Section line a distance of 345.10 feet to the **True Point Of Beginning**, thence S 00°41'00" W a distance of 239.34 feet to the south line of Block 4 in said Addition, thence N 89°35'06" W on the south line of said Addition, a distance of 186.71 feet to a point 251.47 east of the SW corner of Block 6 in said Addition, thence N 17° 27' 07" W a distance of 251.47 feet to a point on the north line of said Addition said point being distant 198.15 feet east of the production north of the west line of said Block 6, thence S 89° 35' 06" E on the north line of said Addition, being the same as the Section line common to aforementioned Sections, a distance of 264.98 feet to the **True Point Of Beginning; EXCEPT** the north 20 feet thereof.

PARCEL 6 - Lot G

Those portions of a Tract of land in Gilmore's Addition to the City of Seattle as recorded in Vol. 32, pg. 10 of the Records of King Co., said Tract being acquired by the War Department through Civil Action 388, together with those portions of vacated NE 65th St. in said Addition as vacated by V.O. 71498, bounded by the following description:

Beginning at the SW corner of Block 1 in said Gilmore's Add., thence N 42° 03' 59" E a distance of 320.31 feet to the north line of said Gilmore's Add., being the same as the Section line common to Sections 2 and 11, Twp 25N, Rng 4E, W.M., thence N 89° 35' 06" W on said Section line a distance of 198.00 to a point on a curve of the east margin of Sand Point Way N.E., the radial center of which bears S 89° 22' 20" W at a distance of 356.64 feet, thence south and west on said curved margin through a central angle of 19°05'40" an arc distance of 118.86 feet to a non-tangent cusp on the west line of said Block 1, thence S 00° 48' 49" E feet on said west line a distance of 122.36 feet to the point of beginning. **EXCEPT** the north 20.00 feet thereof.

PARCEL 6B western segment

That portion of the east one-half of the southwest quarter (SW¼) of Section 2, TWP 25N, RNG 04E, W.M., said east one-half being acquired by the U. S. Navy on behalf of the United States of America by deed recorded in the records of King Co., Washington in Vol. 1306 at pg. 455, described as follows:

Commencing at the west one-sixteenth corner common to Sections 2 and 11, TWP 25N, RNG 04E, W.M., accepted as being the same as the center-line intersection of NE 65th Street and Sand Point Way NE, thence N 00° 48' 49" W on the centerline of Sand Point Way NE a distance of 60.01 feet, thence leaving said centerline S 89° 35' 06" E a distance of 30.01 feet to a point on the east marginal

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Exhibit B
Lead Based Paint Warning

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a risk to pregnant women. The seller of any interest in residential property is required to provide the buyer with any information on lead-based pain hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

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Exhibit B
Lead Based Paint Warning

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a risk to pregnant women. The seller of any interest in residential property is required to provide the buyer with any information on lead-based pain hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

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Exhibit C
HISTORIC PRESERVATION COVENANT
NATIONAL PARKS SERVICE PUBLIC BENEFIT CONVEYANCE

A portion of the property conveyed herein is within the Naval Station Puget Sound (NSPS) Sand Point Historic District. A location map depicting the parcel in relation to the Historic District and a list of buildings and other site features that are considered contributing elements to the Historic District are described on Attachment 1 to this Exhibit. All structures and site features identified as contributing elements to the NSPS Sand Point Historic District have been determined by the Washington State Historic Preservation Office (SHPO) to be eligible for inclusion in the National Register of Historic Places and shall therefore be preserved, protected and maintained in accordance with plans approved by the National Park Service (NPS) and prior agreements between the Department of the Navy and the State of Washington Historic Preservation Officer (SHPO), herein incorporated by reference.

1. Prior to the initiation of any construction, alteration, remodeling, demolition, disturbance of the ground surface, irrevocable disturbance of landscape settings, or other action which would materially affect the integrity, appearance, or historic value of structures or settings , the grantee or successors and assigns shall obtain the approval of the National Park Service and/or a designee (SHPO). Actions considered to materially affect the property would affect the exterior surfaces, or change the height, or alter the exterior facade (including without limitation exterior walls, windows and roofs, design, color and materials),or adversely effect the structural soundness of the property or alter a significant interior feature. Actions that would affect views within the historic district, landscaping, open space, add new structures or paved areas or site elements such as towers, fences, signs would also be considered to materially affect the property. Plans which are submitted in accordance with this section shall be prepared to conform, to the maximum extent possible, with the Secretary of Interior's *"Standards and Guidelines for Historic Preservation Projects"* as supplemented or amended.

2. Projects identified within and in full conformance with a Historic Property Reuse and Protection Plan, approved by the National Park Service and/or a designee shall be considered to be pre-approved and are not subject to the requirements of Item 1 of this section.

3. Grantee will make every effort to retain and reuse, to the extent practicable, the historic structures.

4. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the United States Government may, following reasonable notice to the Grantee, institute any action to enjoin said violation or to recover the restoration of the property. The successful party shall be entitled to recover all costs or expenses incurred in connection with such action, including all court costs and attorney's fees.

5. The failure of the United States Government to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.

6. This historic preservation covenant is a binding servitude on the grantee and its successors, and assigns in perpetuity. Restrictions, stipulations and covenants contained herein shall be inserted by the grantee verbatim or by explicit reference in any deed or other legal instrument by which it divests

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itself of either fee simple or any lessor estate in all or any part of the real estate that is associated with the NSPS Sand Point Historic District.

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ATTACHMENT 1 to Exhibit C
SAND POINT HISTORIC DISTRICT CONTRIBUTING ELEMENTS
AND THEIR CHARACTER DEFINING FEATURES
CONTAINED WITHIN THE NATIONAL PARK SERVICE'S
PUBLIC BENEFIT CONVEYANCE TO THE CITY OF SEATTLE

The following features of the various historic district elements were determined to be character defining by the representatives of the Washington State Office of Archeology and Historic Preservation, the Navy and the City of Seattle during site inspections conducted in September, 1996, March, June, July, and August of 1997.

BUILDINGS

In general the character defining exterior features of contributing buildings are wall surfaces, rooflines, window openings and divided light windows, specialized doors, art deco architectural ornamentation and lighting fixtures. Most of the buildings retain their original style. There have been additions to many of the buildings but most were completed prior to W.W. II and used similar materials in the same style to mimic the original structure. Original windows and doors have been replaced in several instances with non-original material but the placement and style have been retained. There is sufficient integrity in the floor plans, space volumes, exposed structural elements, and industrial finishes in the hangars and other shop spaces to make these interior features contributing elements. In the case of the other types of buildings most have been substantially modified during numerous renovations and use changes and exhibit a limited amount of details or fabric worthy of retention.

It is important to note that the building specific character defining features listed below are intended to provide a baseline reference point for consideration during development of alteration and maintenance projects. Preservation of the listed features should be the goal during project planning. In addition it should not be assumed that projects, especially large scale interior remodel projects, will not have an adverse effect on historic character even if none of the listed features is affected. Such projects will still require review by a historic preservation specialist.

Building Specific Features

Building 2 (Parcel 1, Lot B - constructed 1929) This building is 144,000 SF and contains two large hangar bays and numerous smaller rooms. The exteriors of the hangar bays have somewhat different styles with brick exterior walls on the north section and corrugated transite on the south section. This building is the oldest surviving structure at Sand and relates directly to the historic aviation mission and exhibits strong art deco influence in its finishes and details.

Building 2 Specific Exterior Features

1. Original multi-story rolling metal framed hangar doors on the east facade on north and southhangar bays and also on the west side of the south hangar bay. These doors are solid at the bottom with window lights in a and the remainder of the door height.
2. Original steel framed divided light doors and widows on end and back walls.
3. Emblem above southeast hangar doors.
4. Overhead beam for loading and lifting on south end of west side.

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Building 2 Specific Interior Features

1. Interior space volume in both hangar bays. The mezzanine in the north hangar is not a character defining feature.

Building 11 (Parcel 1, Lot A - constructed 1940) Contains 62,000 SF and was public works office and shop complex. The facade combines brick veneer and corrugated exterior wall material.

Building 11 Specific Exterior Features

1. Original steel frame divided light windows.

Building 11 Specific Interior Features

1. Exposed structural system in shop area, especially post and beam connections.
2. Entry lobby to office portion detailing consisting of ceiling cornice of stars and hefron pilasters flanking interior door.

Building 12 (Parcel 1, Lot C - constructed 1940) Central Steam Plant houses three large boilers and associated equipment.

Building 12 Specific Exterior Feature

1. Original double height ,divided light industrial windows with operable center panels.
2. Large door openings with side by original side by side shop doors with divide light industrial windows in top 2/3.
3. Emission stacks and vents on roof.

Building 12 Specific Interior Features

None

Building 15 (Parcel 6, Lot E - constructed 1938) Recreation Facility originally a green house later converted to a golf club house and last used as arts and crafts center. Does not have specific exterior or interior features.

Building 18 (Parcel 6, Lot B - constructed 1936) Brick building first used as motor vehicle shop and then a fire station. The hose-drying tower is a prominent vertical element in the District, especially looking from north to south.

Building 18 Specific Exterior Features

1. Cast concrete parapet
2. Divided light industrial windows with cast concrete sills
3. Large garage type doors on north facade
4. Hose drying tower

Building 18 Specific Interior Features

None

Building 30 (Parcel 6, Lot A - constructed 1938) Consists of large central hangar space flanked by a three story office wing on the west side and two levels of shop and office spaces on the east side. Another classic hangar area although smaller in area than Building 2, at 80,066 SF. Non-hangar portion has Art Deco detailing similar to Buildings 25 and 29.

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Building 30 Specific Exterior Features

1. Large rolling hangar doors. Door area above 7 feet is divided lights End panel door have standard 3' wide doors built in for access.
2. Main entrance to office area on the west side. Features include double sided "T" shaped stairway leading to entry, Art Deco lanterns on the railings at the bottom of the staircase, a fluted panel into which double entry doors are recessed that extends the full height of the building, and a flat canopy projects out from the doors forming a weather cover. The cover is wrapped in fluted aluminum with stand up letters in Art Deco style reading Administration.
3. Original windows on two story east wing with dark painted frames on the first floor and pre-cast concrete sills on the second floor. Most windows in the three-floor west wing are replacements.

Building 30 Specific Interior Features

1. Base Commanding Officer's suite located on the third floor of the west wing. Specific details include paneled conference room with fireplace and adjacent Officer's Ward room including built in wall seating, glass block bar and original linoleum floor with pre W.W.II aircraft logo with red star in the center.
2. General configuration of office area on southwest corridor of the first floor of the west wings in particular the interior daylight glass top partitions.
3. High bay and open space volume of the hangar area.

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Building 31 (Parcel 1, Lot A - constructed 1938) Built on a pier that originally was used to unload fuel barges. The building was used to provide covered slips for boats, including the Admiral's barge and watch standing space for the barge crew.

Building 31 Specific Exterior Features

1. Green patterned asphalt roof shingles (although may not be original).

Building 31 Specific Interior Features

None

Building 47 (Parcel 6, Lot D - constructed 1941) Contains 50,060 SF and was used as multi-use recreation complex consisting of gymnasium including bleacher area on one side, weight and exercise rooms, lockers, swimming pool, library, offices and theater. Street facade is brick faced but other sides of building are painted cmu.

Building 47 Specific Exterior Features

1. Cast concrete banding on brick facade
2. Original metal framed windows with divided lights and operable awning center panel
3. Main building entrance on west side consisting of three deep set windows in concrete frame above the entry, and fluted aluminum round edge canopy extending over the entry
4. Lead downspouts

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Building 47 Specific Interior Features

1. Theater area on north side of the building, especially the stage and orchestra pit area, including the wood molding on the front of the stage and wood stairways on either side.

Building 67 (Parcel 1, Lot D - constructed 194[illegible] Contains 33,720 SF used as vehicle maintenance and parking garage facility. It was built on a hillside to provide vehicle access to service and garage areas on separate levels.

Building 67 Specific Exterior Features

1. Main entrance on upper level with glass block walls on the side and half round cover over the doorway that is edged in stainless steel.
2. Multiple, large garage-style openings on the ground and second level.

Building 67 Specific Interior Features

None

Building 138 (Parcel 3, Lot E - constructed 1942) Built as Pass and ID office and police station. Two story building on either side of main entrance with continuous second floor forming a bridge over the entrance. High visibility location at the main entry point and close to major public thoroughfare.

Building 138 Specific Exterior Features

1. Original metal frame windows with operable awning center panels.
2. Flat roof line with concrete cornice.

Building 138 Specific Interior Features

1. Stair moldings.
2. Interior walk-in safes.

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MONUMENTS

There is one monument on the base, located in the center island of the main entry road (in front of Building 138). It is a stone column, approximately 13' high, which is capped by a bronze eagle with outstretched wings. A shield shaped plague indicates that the monument commemorates the first around the world military flight that originated and returned to the Sand Point aerodrome in 1926. The monument was moved from its original location in 1942.

LANDSCAPE, SITE FEATURES, VIEWS

The following landscape and other site features within the area conveyed are considered to be contributing features to the Sand Point Historic District. Any proposed action that might effect these features or proposed direct alteration of them would require consultation with Washington SHPO.

Location of features is shown on attached map.
Numbering below coincides with the site feature number on the map. Gaps in the numbers relate to site features that contribute to the Historic District but are not within the area covered by this conveyance.

1. Edge effect created by uniform front foundation lines of buildings 224, 47 and 222.

2. Site of large signboard on southeast corner of intersection of B Street and 4th Street. Sign itself is not original or significant but continuous use of this site for this function is significant.

21. Seaplane Ramp.

22. North/ South view corridor down Avenue A from overpass at 1st Street to Lake Washington.

23. Stepped aggregate shoreline edging south of Building 31.

24. Remaining example of original street light (to be model for new ones placed on site).

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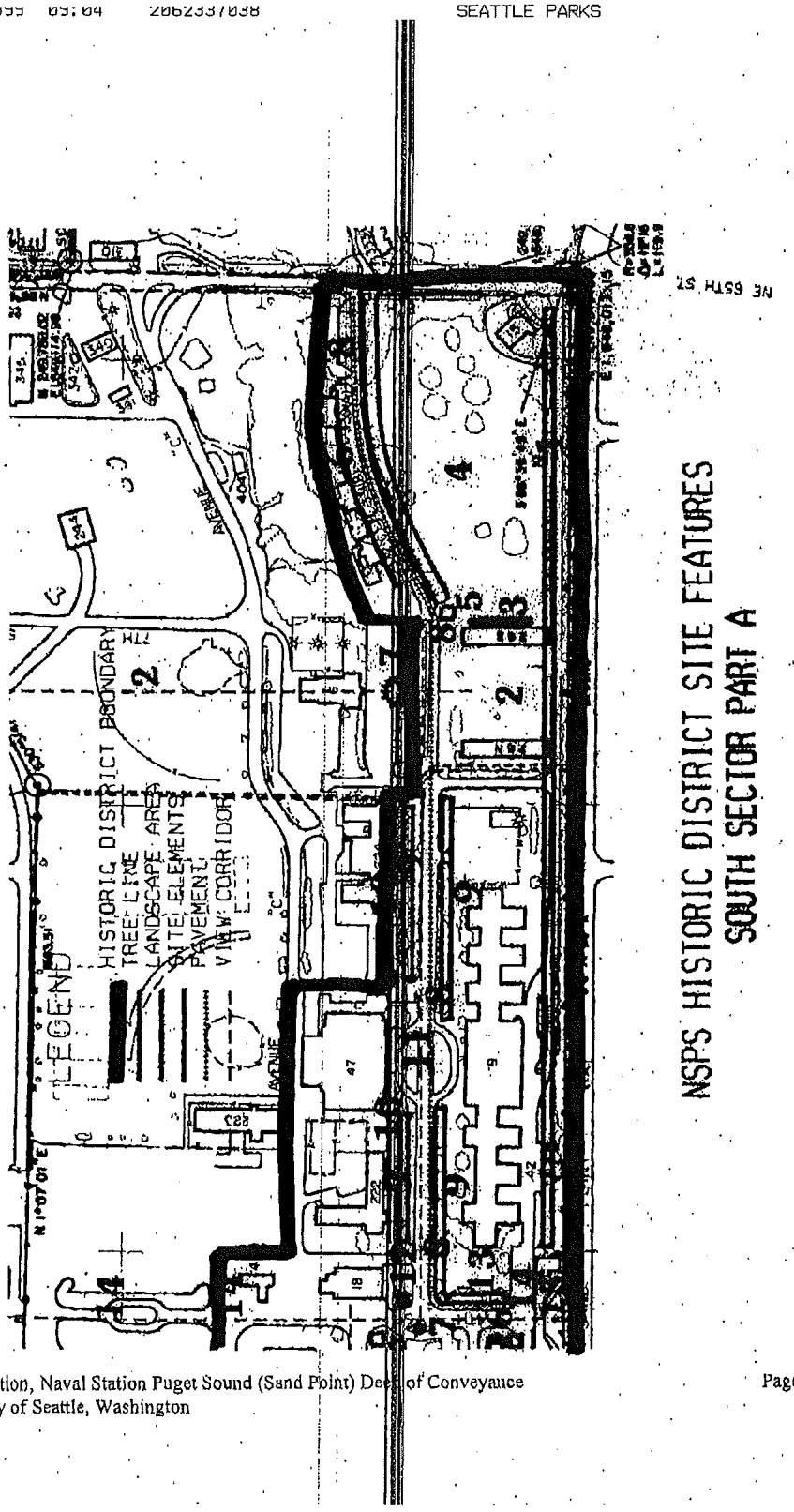

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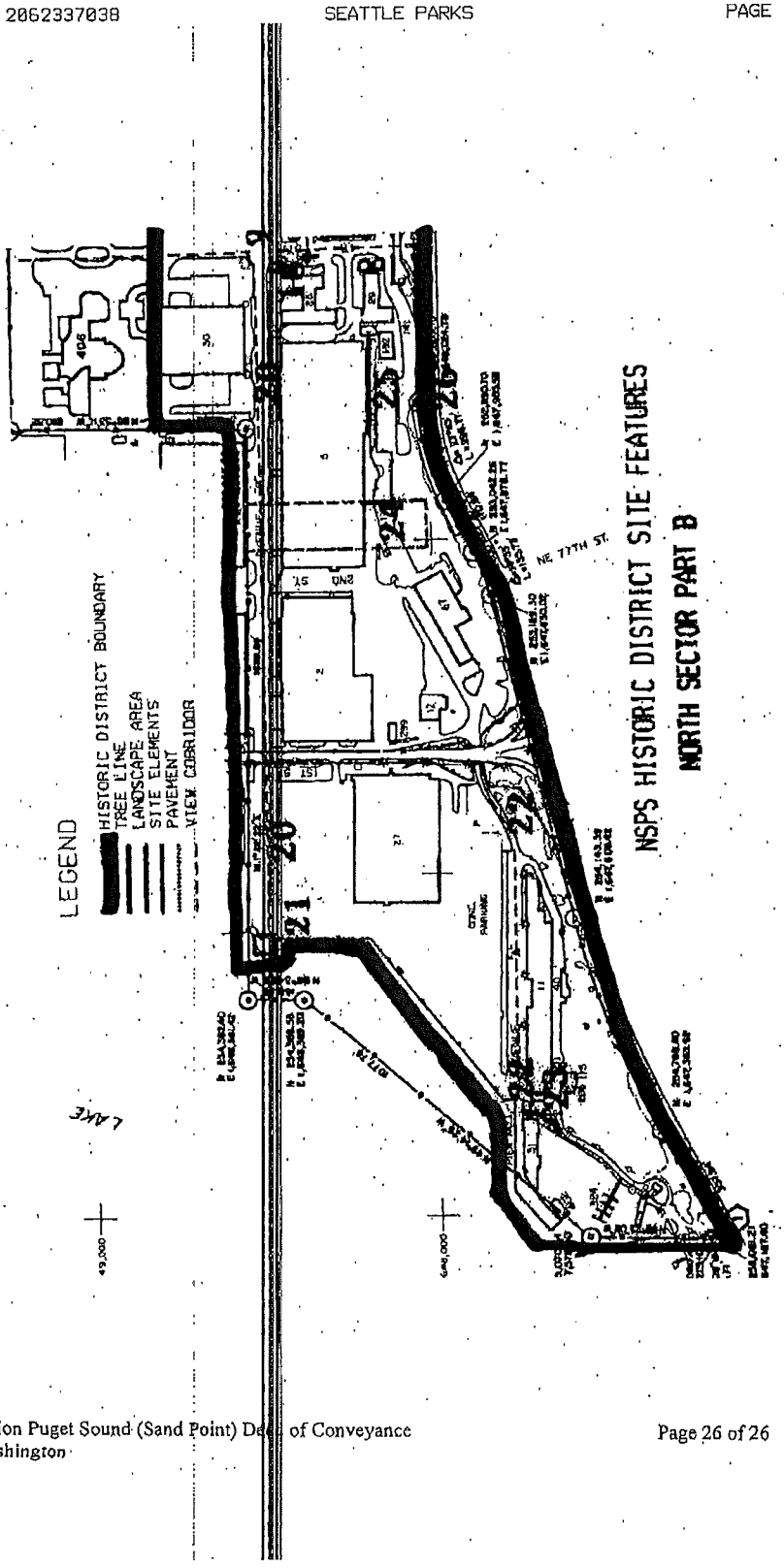

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EXHIBIT E

INSURANCE REQUIREMENTS

1.1 Minimum Insurance Coverages and Limits to be Maintained by Concessionaire. Prior to the Possession Date Concessionaire shall secure, and thereafter maintain in full force and effect throughout the entire Term of this Agreement, at no expense to the City, minimum levels of insurance coverage and limits of liability as specified below:

1.1.1 **Commercial General Liability (CGL)** insurance including:

Premises/Operations
Products/Completed Operations
Personal/Advertising Injury
Contractual
Stop Gap/Employers Liability
Independent Contractors
Host Liquor
Liquor Liability (if alcoholic beverages are sold)

Such insurance must provide the following minimum limits of liability:

$2,000,000.00	each Occurrence Combined Single Limit Bodily Injury and Property Damage (CSL)
$2,000,000.00	each Offense Personal/Advertising Injury
$2,000,000.00	each Common Cause Liquor Liability (if applicable)
$1,000,000.00	each Accident/ Disease/Employee Stop Gap/Employers Liability

1.1.2 **Automobile Liability Insurance**, including coverage for owned, non-owned, leased or hired vehicles, as applicable, with a minimum limit of $2,000,000.00 CSL.

1.1.3 **Excess/Umbrella Liability Insurance** as may be required to provide the minimum limits of liability required in Paragraphs 1.1.1. and 1.1.2.

1.1.4 **Workers' Compensation Insurance** securing Concessionaire's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington; provided, that if Concessionaire is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Concessionaire shall certify that qualification by a letter signed by a corporate officer of

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Concessionaire and delivered to City that sets forth the limits of any excess insurance workers' compensation policy.

1.1.5 **Property Insurance** under which (i) the Building and other major insurable structures on the Premises, including the Initial Improvements and any other insurable improvements thereto that Concessionaire makes to the Premises (the "Structures"), and (ii) Concessionaire's furniture, fixtures, equipment, inventory and trade fixtures and ("Business Property") are insured throughout the Agreement Term. Such property shall be insured in an amount equal to the current replacement cost thereof (with respect to the Structures, as established on or about the Possession Date, and annually thereafter, in consultation with the City) against the following hazards: (i) 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); (ii) earthquake and flood; (iii) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (iv) 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; (v) loss from business interruption or extra expense, with sufficient coverage to provide for the payment of the Concession Fee and other fixed costs during any interruption of Concessionaire's business. The deductible for property insurance as required herein shall not exceed $10,000.00 each claim, unless otherwise approved by the City.

During the time that the Initial Improvements are being made to the Structures, Concessionaire shall obtain such **Builder's Risk Property Insurance** as may be required by Concessionaire's property insurer. When so required, the amount of Builder's Risk Property Insurance shall be not less than the Structures' then-current replacement value plus all soft and hard costs of construction, and such valuation shall be the new initial replacement cost valuation after completion. Such Builder's Risk Property Insurance may be furnished by either the Concessionaire or its contractor.

1.2 Minimum Insurance Coverages and Limits to be Maintained by Concessionaire's Contractor(s).

1.2.1 Prior to the commencement of any construction activity on the Premises under this Agreement, Concessionaire shall cause its prime contractor(s) to secure and thereafter maintain in full force and effect for the period of construction, minimum levels of liability (and Builder's Risk Property, if applicable) insurance coverages and limits of liability as specified in Paragraphs 1.1.1 through 1.1.4. (excluding host liquor and liquor liability under CGL insurance) that complies with the terms and conditions specified in Paragraph 1.3. In addition, CGL additional insured status shall include and apply to products/completed operations coverage per the ISO CG 20 10 11 85 endorsement or equivalent, and CGL coverage shall be maintained in force for not less than three (3) years following the completion of work.

1.2.2 In addition to the minimum coverages and limits specified in Paragraph 1.2.1, should on or off-site remediation of hazardous materials be necessary under the scope of work, Concessionaire or its contractor shall secure and maintain

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General Contractor's Pollution Liability Insurance with a minimum limit of liability of $1,000,000.00, each claim, and if transport of hazardous materials is required, CA 99 48 and MCS-90 endorsements must be attached to the Automobile Liability Insurance policy, with minimum limits of liability of $1,000,000.00, CSL.

1.2.3 Proof of insurance required under this Paragraph 1.2 shall be furnished to the City as specified in Paragraph 1.4.

1.3 Terms and Conditions (Not Applicable to Workers' Compensation Insurance). The insurance specified in Paragraphs 1.1 and 1.2 shall be comply with the following:

1.3.1 All insurance shall be issued by an insurer rated A- VII or higher in the A.M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as a surplus lines by a Washington State licensed Surplus lines broker.

1.3.2 CGL and Auto Liability Insurance (and, as applicable, Excess/Umbrella Liability Insurance) shall include the City of Seattle as an additional insured on a primary and non-contributory basis with all insurance and self-insurance the City maintains. Such additional insured status shall apply up to the total limits of liability of all such insurance available to Concessionaire, whether such insurance is primary, excess, contingent or otherwise.

1.3.3 Property Insurance (including Builder's Risk Property Insurance) shall include the City of Seattle as either an additional named insured or as an additional insured and shall also waive the insurer's right of subrogation as against the City.

1.3.4 Any deductible or self-insured retention of more than Twenty-five Thousand Dollars ($25,000.00) is subject to the City's approval. Concessionaire shall be responsible for any claims or payments that fall within the deductible or self-insured retention.

1.3.5 The City may amend the requirements for coverage and/or limits upon ninety (90) days' notice but not more frequently than once every five (5) years and with reasonable justification demonstrating that the changed coverage is consistent with industry practice for comparable facilities.

1.3.6 Insurance shall not be cancelled without written notice of such cancellation being delivered to the City not less than forty-five (45) days prior to the cancellation date, except thirty (30) days as respects insurance procured under the provisions of chapter 48.15 RCW (Surplus Lines) and ten (10) days as respects cancellation for non-payment of premium.

1.3.7 The placement and storage of its personal property in the Premises shall be the responsibility, and at the sole risk, of Concessionaire.

1.4 Proof of Insurance.

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1.4.1 Proof of insurance coverage shall contain sufficient detail to allow the City to assess compliance with the requirements herein and be delivered to the following address prior to the Possession Date:

The City of Seattle
Department of Parks and Recreation
Attention: Manager
Contracts and Business Resources
6310 NE 74th Street
Seattle, WA 98105

A copy shall be delivered electronically as an email attachment or by fax to:

The City of Seattle Risk Management Division
Email: riskmanagement@seattle.gov
Fax: (206) 470-1279

1.4.2 A true copy of the additional insured policy in the CGL insurance policy must be attached, in order to document the City's additional insured status as required under Subsection 1.3.2.

1.4.3 A true copy of the additional insured policy provision in the Property Insurance (including, if applicable, the same provision from any separate Builder's Risk Property Insurance policy) must be attached, in order to document the City's status as an additional insured and to verify the insurer's waiver of subrogation as required under Subsection 1.3.3.

1.4.4 If either the CGL or Property Insurance policy has not been issued as of the date required, a current binder documenting coverages, limits of liability, additional insured status and the waiver of subrogation as required herein shall be substituted.

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Form revised May 5, 2009

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Parks and Recreation	Rebecca Salinas / 684-7279	Jennifer Devore / 615-1328

Legislation Title:
AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into an Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

Summary and background of the Legislation:
Ordinance 122754, adopted in September 2008, authorized the Superintendent to enter into a twenty-year lease, with two five-year extensions, with Seattle Court Sports Unlimited, Inc (SCSU) to develop a tennis facility at Warren G. Magnuson Park. The original agreement was for the construction and management of ten indoor/outdoor tennis courts, to complete roadway alterations and renovate Building 41 as a clubhouse for the tennis center. The Amended and Restated Concession Agreement allows SCSU to demolish Building 41 and construct a new facility in its place.

Consultant reviews and structural analysis of Building 41 concluded that it would cost more per square foot to renovate Building 41 than it would to demolish and build a new structure. The high cost to remedy the unreinforced construction and those associated with bringing the existing building into current energy code compliance were not anticipated. A new structure would provide more amenities as well as add space for additional public benefits.

Project Name:	Project I.D.	Project Location:	Start Date:	End Date
Seattle Court Sports Unlimited, Inc		Warren G. Magnuson Park		Completed

____ **This legislation creates, funds, or anticipates a new CIP Project.** *(Please note whether the current CIP is being amended through this ordinance, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)*

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

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

CITY CLERK

Appropriations: N/A

Fund Name and Number	Department	Budget Control Level*	Existing 2009 Appropriation	New 2009 Appropriation (if any)	2010 Anticipated Appropriation
TOTAL	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Notes:

Spending Plan and Future Appropriations for Capital Projects: N/A

Spending Plan and Budget	2009	2010	2011	2012	2013	2014	Total
Spending Plan							
Current Year Appropriation							
Future Appropriations	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Notes:

Funding source: N/A

Funding Source (Fund Name and Number, if applicable)	2009	2010	2011	2012	2013	2014	Total
TOTAL	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Notes:

Bond Financing Required: N/A

Type	Amount	Assumed Interest Rate	Term	Timing	Expected Annual Debt Service/Payment
TOTAL	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Uses and Sources for Operation and Maintenance Costs for the Project: N/A

O&M	2009	2010	2011	2012	2013	2014	Total
Uses							
Start Up							
On-going							
Sources (itemize)	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Notes:

SDS CITY CLERK

Periodic Major Maintenance costs for the project: N/A

Major Maintenance Item	Frequency	Cost	Likely Funding Source
N/A	N/A	N/A	N/A

Notes:

Funding sources for replacement of project: N/A

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

Position Title and Department*	Position # for Existing Positions	Fund Name & #	PT/FT	2009 Positions	2009 FTE	2010 Positions **	2010 FTE **
TOTAL	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Notes:

- **Do positions sunset in the future?** N/A
- **What is the financial cost of not implementing the legislation**: SCSU could decide not to proceed with the building of the entire tennis facility. However, DPR has no plan to take over the project if SCSU backs out. DPR would not gain a tennis facility, but there would be no financial loss. However, DPR would be required to maintain the vacant building.
- **Does this legislation affect any departments besides the originating department?** No
- **What are the possible alternatives to the legislation that could achieve the same or similar?** None
- **Is the legislation subject to public hearing requirements:** No

Other Issues: Due to the change in the lease to a straight land lease, the minimum yearly base rent would be reduced from $91,297 to $79,581. The base rent may be offset by a maximum of $15,916 per year (20% of the Roadway Improvement Project cost to a maximum of $200,000 over the term of the contract) and an amount negotiated with the Superintendent for programming benefits to the public. The actual amount received by the City for rent cannot be determined at this time due to the unknown programming benefit offset.

Please list attachments to the fiscal note below:
Attachment A: Contract Summary

SEA CITY CLERK

Form revised May 5, 2009

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Parks and Recreation	Rebecca Salinas / 684-7279	Jennifer Devore / 615-1328

Legislation Title:
AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into an Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

Summary and background of the Legislation:
Ordinance 122754, adopted in September 2008, authorized the Superintendent to enter into a twenty-year lease, with two five-year extensions, with Seattle Court Sports Unlimited, Inc (SCSU) to develop a tennis facility at Warren G. Magnuson Park. The original agreement was for the construction and management of ten indoor/outdoor tennis courts, to complete roadway alterations and renovate Building 41 as a clubhouse for the tennis center. The Amended and Restated Concession Agreement allows SCSU to demolish Building 41 and construct a new facility in its place.

Consultant reviews and structural analysis of Building 41 concluded that it would cost more per square foot to renovate Building 41 than it would to demolish and build a new structure. The high cost to remedy the unreinforced construction and those associated with bringing the existing building into current energy code compliance were not anticipated. A new structure would provide more amenities as well as add space for additional public benefits.

Project Name:	Project I.D.	Project Location:	Start Date:	End Date
Seattle Court Sports Unlimited, Inc		Warren G. Magnuson Park		Completed

____ **This legislation creates, funds, or anticipates a new CIP Project.** *(Please note whether the current CIP is being amended through this ordinance, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)*

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

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

Appropriations: N/A

Fund Name and Number	Department	Budget Control Level*	Existing 2009 Appropriation	New 2009 Appropriation (if any)	2010 Anticipated Appropriation
TOTAL	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Notes:

Spending Plan and Future Appropriations for Capital Projects: N/A

Spending Plan and Budget	2009	2010	2011	2012	2013	2014	Total
Spending Plan							
Current Year Appropriation							
Future Appropriations	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Notes:

Funding source: N/A

Funding Source (Fund Name and Number, if applicable)	2009	2010	2011	2012	2013	2014	Total
TOTAL	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Notes:

Bond Financing Required: N/A

Type	Amount	Assumed Interest Rate	Term	Timing	Expected Annual Debt Service/Payment
TOTAL	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Uses and Sources for Operation and Maintenance Costs for the Project: N/A

O&M	2009	2010	2011	2012	2013	2014	Total
Uses							
Start Up							
On-going							
Sources (itemize)	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Notes:

COUNCIL CLERK

Periodic Major Maintenance costs for the project: N/A

Major Maintenance Item	Frequency	Cost	Likely Funding Source
N/A	N/A	N/A	N/A

Notes:

Funding sources for replacement of project: N/A

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

Position Title and Department*	Position # for Existing Positions	Fund Name & #	PT/FT	2009 Positions	2009 FTE	2010 Positions **	2010 FTE **
TOTAL	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Notes:

- **Do positions sunset in the future?** N/A
- **What is the financial cost of not implementing the legislation**: SCSU could decide not to proceed with the building of the entire tennis facility. However, DPR has no plan to take over the project if SCSU backs out. DPR would not gain a tennis facility, but there would be no financial loss. However, DPR would be required to maintain the vacant building.
- **Does this legislation affect any departments besides the originating department?** No
- **What are the possible alternatives to the legislation that could achieve the same or similar?** None
- **Is the legislation subject to public hearing requirements:** No

Other Issues: Due to the change in the lease to a straight land lease, the minimum yearly base rent would be reduced from $91,297 to $79,581. The base rent may be offset by a maximum of $15,916 per year (20% of the Roadway Improvement Project cost to a maximum of $200,000 over the term of the contract) and an amount negotiated with the Superintendent for programming benefits to the public. The actual amount received by the City for rent cannot be determined at this time due to the unknown programming benefit offset.

Please list attachments to the fiscal note below:
Attachment A: Contract Summary

COUNCIL CLERK

Attachment A
Seattle Department of Parks and Recreation

CONTRACT SUMMARY

Contracting Party/ Lessee/ Concessionaire/Other: Seattle Court Sports Unlimited, Inc

Contract Title and Contract Type: Amended and Restated Lease for a Tennis Facility at Magnuson Park (land and current site of Building 41)

Non-Profit_____ or **For Profit** ___X___

New_____ or **Renewal (or extension of existing Lease)** X_____

Premises: Land and current site of Building 41 at Magnuson Park

Term of Lease: 20 years plus two five-year extensions

Purpose of Restated and Amended Lease (description of license): Lessee will construct and operate a tennis facility with ten indoor/outdoor courts and a clubhouse for purposes incidental to the operation of the tennis facility, i.e. storage, offices, food service, locker rooms and meeting rooms. In the restated and amended lease, lessee is given the option of tearing down the existing Building 41 and constructing a new clubhouse facility. Lessee will also complete roadway improvements to allow for the courts to be built over an existing park road. Lessee is planning a phased in construction. The roadway improvements and tennis courts will be built in the first phase. The clubhouse will be constructed in the second phase relying on financing based on revenue from the operation of the tennis courts.

Rent: Base rent is $79,581 ($1.00 per square foot) per year plus an additional 10% of gross revenue from third party sales and rentals. Rent is subject to CPI adjustment after one year.

Adjustments to Rent (if any): Maximum offset of $200,000 for roadway improvement costs. No maximum set against base and additional rent for public benefits that include scholarships and free classes.

Public Benefit (e.g., description of permitted use): Scholarships and free public classes.

Maintenance: Lessee is responsible for all minor and major maintenance of the Premises during the term of the lease.

Other Pertinent Information: The tearing down and rebuilding on the site of building 41 is conditioned on the cost effectiveness of new construction which will offer an improved and more efficient facility with improved public amenities. The building is a contributing building to the "Historic District." Lessee will mitigate as needed.

COUNCIL CLERK

Form revised May 5, 2009

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Parks and Recreation	Rebecca Salinas / 684-7279	Jennifer Devore / 615-1328

Legislation Title:
AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into an Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

Summary and background of the Legislation:
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Consultant reviews and structural analysis of Building 41 concluded that it would cost more to renovate Building 41 than it would to demolish and build a new structure. The high cost to remedy the unreinforced construction and those associated with bringing the existing building into current energy code compliance were not anticipated. A new structure would provide more amenities as well as add space for additional public benefits.

Project Name:	Project I.D.	Project Location:	Start Date:	End Date
Seattle Court Sports Unlimited, Inc		Warren G. Magnuson Park		Completed

____ **This legislation creates, funds, or anticipates a new CIP Project.** *(Please note whether the current CIP is being amended through this ordinance, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)*

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

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

COUNCIL CLERK

Appropriations: N/A

Fund Name and Number	Department	Budget Control Level*	Existing 2009 Appropriation	New 2009 Appropriation (if any)	2010 Anticipated Appropriation
TOTAL	N/A	N/A	N/A	N/A	N/A

Notes:

Spending Plan and Future Appropriations for Capital Projects: N/A

Spending Plan and Budget	2009	2010	2011	2012	2013	2014	Total
Spending Plan							
Current Year Appropriation							
Future Appropriations	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Notes:

Funding source: N/A

Funding Source (Fund Name and Number, if applicable)	2009	2010	2011	2012	2013	2014	Total
TOTAL	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Notes:

Bond Financing Required: N/A

Type	Amount	Assumed Interest Rate	Term	Timing	Expected Annual Debt Service/Payment
TOTAL	N/A	N/A	N/A	N/A	N/A

Uses and Sources for Operation and Maintenance Costs for the Project: N/A

O&M	2009	2010	2011	2012	2013	2014	Total
Uses							
Start Up							
On-going							
Sources (itemize)	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Notes:

COUNCIL CLERK

Periodic Major Maintenance costs for the project: N/A

Major Maintenance Item	Frequency	Cost	Likely Funding Source
N/A	**N/A**	**N/A**	**N/A**

Notes:

Funding sources for replacement of project: N/A

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

Position Title and Department*	Position # for Existing Positions	Fund Name & #	PT/FT	2009 Positions	2009 FTE	2010 Positions **	2010 FTE **
TOTAL	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Notes:

- **Do positions sunset in the future?** N/A
- **What is the financial cost of not implementing the legislation**: SCSU could decide not to proceed with the building of the entire tennis facility. However, DPR has no plan to take over the project if SCSU backs out. DPR would not gain a tennis facility, but there would be no financial loss.
- **Does this legislation affect any departments besides the originating department?** No
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COUNCIL CLERK

Attachment A
Seattle Department of Parks and Recreation

CONTRACT SUMMARY

Contracting Party/ Lessee/ Concessionaire/Other: Seattle Court Sports Unlimited, Inc

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New_____ or **Renewal (or extension of existing Lease)** X_____

Premises: Land and current site of Building 41 at Magnuson Park

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Rent: Base rent is $79,581 ($1.00 per square foot) per year plus an additional 10% of gross revenue from third party sales and rentals. Rent is subject to CPI adjustment after one year.

Adjustments to Rent (if any): Maximum offset of $200,000 for roadway improvement costs. No maximum set against base and additional rent for public benefits that include scholarships and free classes.

Public Benefit (e.g., description of permitted use): Scholarships and free public classes.

Maintenance: Lessee is responsible for all minor and major maintenance of the Premises during the term of the lease.

Other Pertinent Information: The tearing down and rebuilding on the site of building 41 is conditioned on the cost effectiveness of new construction which will offer an improved and more efficient facility. The building is a contributing building to the "Historic District." Lessee will mitigate as needed.

COUNCIL CLERK

City of Seattle

Michael McGinn, Mayor

Office of the Mayor

February 2, 2010

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am transmitting the attached proposed Council Bill authorizing the Superintendent of Parks and Recreation to revise the agreement between the City and Seattle Court Sports Unlimited (SCSU) to further development of a tennis center at Magnuson Park.

The original 2008 agreement granted a concession to SCSU to develop a tennis facility at Magnuson Park that would include construction of ten new indoor/outdoor tennis courts, the renovation of Building 41 into a tennis support facility, and roadway improvements. It was anticipated that Building 41 could be renovated in a cost-efficient manner and result in a support building for the ten new tennis courts. However, engineering and architectural studies demonstrated that building renovation costs would exceed the demolition and construction costs of an entirely new building. The revised agreement leases SCSU the land to construct the tennis courts and a support building with no requirement to renovate the existing building.

Thank you for your consideration of this legislation. Should you have questions, please contact Rebecca Salinas at 684-7279.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749
Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov
An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

COUNCIL CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

257178 No.
CITY OF SEATTLE,CLERKS OFFICE

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:123330-331 TITLE ONLY

was published on

07/07/10

The amount of the fee charged for the foregoing publication is the sum of $ 54.60, which amount has been paid in full.

JENNIFER A. RATZER NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES OCT. 24, 2011

Subscribed and sworn to before me on 07/07/10

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 June 21, 2010, 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. 123331

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into an Amended and Restated Concession Agreement between the City of Seattle and Seattle Court Sports Unlimited, Inc.

ORDINANCE NO. 123332

AN ORDINANCE accepting Enron Corporation legal settlement revenues from the State of Washington and Puget Sound Energy; authorizing related agreements; amending the 2010 Adopted Budget to increase appropriations for the Office of Housing and the City Light Department; and ratifying and confirming prior acts; all by a three-fourths vote of the City Council.

ORDINANCE NO. 123330

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, July 7, 2010.

7/7(257178)