

ORDINANCE No. 118080

COUNCIL BILL No. 11127

INDEXED

The City of Seattle--L

Law Department

AN ORDINANCE relating to the preservation and development of the City to guaranty a portion of a proposed bond issue of the City of Seattle a portion of Authority bonds which the City has previously had guaranteed; authorizing an amendment to the existing interlocal agreement with the Authority; and providing for certain other matters in connection therewith.

REPORT OF C

Honorable President:

Your Committee on _____

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

4-3-96 Finance & Budget Committee

PASS 3-0

Full Council Vote

COMPTROLLER FILE No. _____

Introduced: <u>3-25-96</u>	By: <u>Choe</u>
Referred: <u>3-25-96</u>	To: <u>Finance & Budget</u>
Referred:	To:
Referred:	To:
Reported: <u>APR - 3 1996</u>	Second Reading: <u>APR - 3 1996</u>
Third Reading: <u>APR - 3 1996</u>	Signed: <u>APR - 3 1996</u>
Presented to Mayor: <u>APR - 4 1996</u>	Approved: <u>APR - 9 1996</u>
Returned to City Clerk: <u>APR 10 1996</u>	Published: <u>Full</u>
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Committee

Special Meeting

INDEXED

The City of Seattle--Legislative Department

Department

Date Reported
and Adopted

REPORT OF COMMITTEE

Honorable President:

Our Committee on _____

which was referred the within Council Bill No. _____

report that we have considered the same and respectfully recommend that the same:

4-3-96 Finance & Budget Committee

PASS 3-0

Full Council vote 9-0

Committee Chair

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ORDINANCE 118080

1
2 AN ORDINANCE relating to the Pike Place Market Preservation and Development
3 Authority; authorizing the City to guaranty with its full faith and credit a proposed
4 bond issue of the Authority to refund a portion of Authority bonds which the City
5 previously had guaranteed; authorizing an amendment to the existing interlocal
6 agreement with the Authority; and providing for certain other matters in connection
7 therewith.

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

9 Section 1. Findings. The City Council hereby makes the following findings.

10 The Pike Place Market Preservation and Development Authority issued its Special Obligation
11 Bonds, Series 1991A and Series 1991B dated November 1, 1991 in the aggregate principal amount of
12 \$7,525,000 to fund a settlement agreement regarding control of the Pike Place Market arising from
13 certain financial transactions and to pay off certain mortgages on property of the Market. The Series
14 1991B Bonds have been paid in full and \$6,250,000 of the Series A Bonds remain outstanding.

15 In Ordinance No. 115780, the City found that serving as guarantor of the Authority's Series
16 1991A and Series 1991B Bonds and pledging the full faith and credit of the City to guarantee their
17 payment was necessary, proper and in the public interest, and was a public and strictly municipal
18 purpose. Pursuant to such ordinance, the City entered into an Interlocal Cooperation Agreement with
19 the Authority dated November 1, 1991, in which the City agreed to guaranty the payment of principal
20 of and interest on the Series 1991A and 1991B Bonds.

21 Because of favorable conditions in the bond market, it may be possible for the Authority to
22 issue refunding bonds and use the proceeds thereof to advance refund \$5,755,000 of the Series
23 1991A Bonds. Such a refunding, if secured by the guaranty of the City, will realize significant debt
24 service savings to the Authority over the life of the refunding bonds.

25 The proposed refunding of a portion of the outstanding Series 1991A Bonds of the Authority
26 will reduce the obligation of the City under its guarantee of such bonds. Continuing the guaranty of
the Series 1991A Bonds which will not be refunded and guaranteeing the payment of the proposed

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1 refunding bonds through a pledge of the City's full faith and credit remains necessary, proper and in
2 the public interest, and the same remains a public and strictly municipal purpose.

3 Section 2. Definitions. As used in this ordinance, the words hereinafter defined shall have
4 the meaning set forth in this section.

5 A. "Amended Agreement" means the Interlocal Cooperation Agreement dated
6 November 1, 1991 between the City and the Authority, as amended to set forth the terms and
7 conditions relating to the issuance of the 1996 Bonds, the use of the proceeds thereof and for certain
8 other matters in connection therewith.

9 B. "1996 Bonds" means the refunding obligations of the Authority, to be
10 guaranteed by the City, as authorized in this ordinance.

11 C. "Legislative Authority" means the Mayor and the City Council of the City.

12 Section 3. The Bonds. The Mayor or his designee is hereby authorized to execute or
13 supply on behalf of the City any and all documents necessary or convenient to guarantee the 1996
14 Bonds to be issued by the Authority for the purposes identified herein, including without limitation a
15 Depository Agreement, substantially in the form attached hereto as Exhibit A, subject to such
16 modification as may be necessary to effect the transactions authorized herein and provide the City
17 with a satisfactory level of security. The scope of the City's guarantee shall be consistent with all of
18 the following requirements.

19 A. The City shall pledge its full faith and credit to guarantee the 1996 Bonds;

20 B. The total principal amount of the 1996 Bonds at their maturity shall not exceed
21 Seven Million Five Hundred Thousand Dollars (\$7,500,000);

22 C. The total annual debt service of the Authority with respect to the outstanding
23 Series 1991A Bonds and the 1996 Bonds shall not exceed Six Hundred Thousand Dollars (\$600,000)
24 per year and under no circumstances shall the aggregate tenant rents be increased for the purpose of
25 financing debt service on the 1996 Bonds;

26

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1 D. The life final maturity date of the 1996 Bonds shall ~~not exceed twenty-five~~
2 years be no later than December 21, 2012; and

3 E. The net present value of the savings from the refunding shall not be less than
4 \$287,750 (5%).

5 F. The 1996 Bonds shall be issued no later than December 31, 1996.

6 Section 4. The Interlocal Agreement. The Mayor or his designee is hereby authorized to
7 execute, on behalf of the City, an amendment to the existing Interlocal Cooperation Agreement dated
8 as of November 1, 1991 between the City and the Authority, substantially in the form attached hereto
9 as Exhibit B, subject to such modification as may be necessary to effect the transactions authorized
10 herein and provide the City with a satisfactory level of security, that includes without limitation
11 provisions regarding:

12 A. The uses of the funds obtained through the sale of the 1996 Bonds;

13 B. The terms and conditions pursuant to which the City serves as a guarantor for
14 the 1996 Bonds and pledges the City's full faith and credit;

15 C. The establishment of a reserve fund or other appropriate accounting facility
16 subject to expenditure only for payment of principal of and interest on the 1996 Bonds, to be funded
17 upon retirement of the 1996 Bonds; and

18 D. Confirmation of the applicable terms of the original Interlocal Agreement.

19 The Amended Agreement may contain such further terms, conditions, restrictions and
20 limitations as may be deemed necessary by the Mayor or his designee.

21 Section 5. Severability. In the event that any one or more of the provisions of this
22 ordinance shall for any reason be held to be invalid, such invalidity shall not affect any other provision
23 of this ordinance, but this ordinance shall be construed and enforced as if such invalid provisions had
24 not been contained therein; provided, however, if any provisions shall for any reason be held by
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1 reason of their extent to be invalid, the same shall be deemed to be in effect to the extent permitted by
2 law.

3 Section 6. Ratification. All acts taken pursuant to the authority of this ordinance but
4 prior to its effective date are hereby ratified, approved and confirmed.

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

9 Passed by the City Council the 3rd day of April, 1996 and signed by me in open
10 session in authentication of its passage this 3rd day of April, 1996.

11
12 Jan Duggo
13 President _____ of the City Council

14 Approved by me this 9 day of April, 1996.

15 Norman B. Rice
16 Mayor

17 Filed by me this 10 day of April, 1996.

18 Jessie E. Pappin
19 City Clerk

20 (Seal)
21
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DEPOSITORY AGREEMENT

THIS DEPOSITORY AGREEMENT by and among the Pike Place Market Preservation and Development Authority (the "Authority"), The City of Seattle (the "City") and _____ (the "Paying Agent") is entered into as of this 1st day of April __, 1996. Capitalized terms used in this Depository Agreement and not otherwise defined shall have the meanings given to them in Resolution No. 96-11 of the Authority adopted on March 26, 1996 (the "Resolution"), a copy of which is attached hereto as Exhibit A.

WITNESSETH:

WHEREAS, the Authority and City have entered into the Interlocal Agreement, dated as of November 1, 1991 and amended as of April 1, 1996 (the "Interlocal Agreement"), a copy of which is attached hereto as Exhibit B, pursuant to which the City unconditionally pledged its full faith and credit to guarantee payment of the Bonds as hereinafter defined, in the event that on any Debt Service Payment Date, amounts in the Bond Fund are insufficient to make scheduled payments of the principal of and interest on the Bonds; and

WHEREAS, pursuant to the Resolution the Authority has authorized the issuance of its Special Obligation Refunding Bonds, Series 1996, in the aggregate principal amount of \$ _____ (the "Bonds"), which bonds are secured, in part, by the City's unconditional obligations to make payments into the Bond Fund pursuant to the Interlocal Agreement; and

WHEREAS, it is in the best interests of the City and of the Authority for the Bond Fund to be held by the Paying Agent on behalf of the Authority and the City and for the City to make the payments required under the Interlocal Agreement directly to the Paying Agent for the account of the Authority; and

WHEREAS, the parties hereto desire to specify the arrangement by which such funds shall be deposited;

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NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree and covenant as follows:

Section 1. Establishment of Bond Fund, Debt Service Account, and Sinking Fund Account. The Paying Agent hereby establishes for the account of the Authority the Special Obligation Refunding Bond Fund (the "Bond Fund"), and within such Bond Fund, the following accounts: the Debt Service Account (the "Debt Service Account") and the Sinking Fund Account (the "Sinking Fund Account").

Section 2. Deposit of Funds by the Authority. The Authority shall deposit money in the Debt Service Account and Sinking Fund Account as required by the Resolution by payment of the same in immediately available funds no later than the date specified in such Resolution directly to the Paying Agent for deposit in the appropriate account. Such payment shall be made to " _____ as Paying Agent for the Pike Place Market Preservation and Development Authority Special Refunding Obligation Bonds, Series 1996" and delivered to the Paying Agent at the following address: _____.

Section 3. Notices to be Given to City by Paying Agent; City Payments.

(a) Notice of Insufficiency 30 Days Prior to Debt Service Payment Date. In the event that on the first Business Day of the month preceding a Debt Service Payment Date the amount of funds in the Debt Service Account and Sinking Fund Account does not equal or exceed the amount of interest and principal due and payable on the next Debt Service Payment Date, then the Paying Agent shall calculate the amount of such deficiency and shall on the next Business Day notify the City and the Authority (i) that a deficiency exists in the Bond Fund, (ii) of the amount of such deficiency, and (iii) that, pursuant to Article VI of the Interlocal Agreement, the City must make payments to the Paying Agent for the account of the Authority on or before the next Debt Service Payment Date, in the event other funds are not then available to make the required payment of interest and principal on such Debt Service Payment Date. Such notice shall be given by telephone and confirmed immediately in writing.

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(b) Notice of Bond Fund Insufficiency on Debt Service Payment Date, City's Payment. If by 10:00 a.m. on the ninth Business Day immediately preceding a Debt Service Payment Date, the Paying Agent does not have funds available in the Bond Fund and the accounts therein to make the payment of interest and principal due on such Debt Service Payment Date, the Paying Agent shall immediately so notify the City by telephone to be confirmed immediately in writing, and the City shall remit the deficiency to the Paying Agent for deposit into the Debt Service Account and Sinking Fund Account, as the case may be, no later than 10:00 a.m. on the Debt Service Payment Date. If the Debt Service Payment Date is not on a Business Day, then the payment required herein shall occur on the date debt service is due and payable.

(c) Notice of Final Payment of Bonds. The Paying Agent shall notify the City when it has received sufficient funds to provide for payment of all of the principal and interest due on all of the Outstanding Bonds.

Section 4. Deposit of Funds by the City. The City shall pay the amounts that it is obligated to pay to the Authority pursuant to Article VI.A. of the Interlocal Agreement in immediately available funds no later than the dates and times specified therein and in this Depository Agreement directly to the Paying Agent for deposit in the Bond Fund and to the appropriate account therein. Such payment shall be made to " _____ as Paying Agent for the Pike Place Market Preservation and Development Authority Special Obligation Bonds, Series 1996" and shall be sent by wire transfer or delivered to the Paying Agent at the following address: _____ . The deposit of such funds with the Paying Agent by the specified date will satisfy the City's obligation under the Interlocal Agreement with respect to such payment. At the same time of such payment, the City shall send notice of such deposit to the Authority.

Section 5. Use of Money in Bond Fund. The Paying Agent shall use the money deposited in the Bond Fund and accounts therein to pay punctually the principal of and interest on the Bonds when due and payable in the manner prescribed by the Resolution. Any money in the Bond Fund and accounts therein shall be retained in the appropriate fund and accounts and

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invested and deposited in accordance with the Resolution upon the written direction of the Authority. In the absence of such written direction, the Paying Agent shall invest any money in the Bond Fund and accounts therein in United States Treasury Bills maturing not later than the next Debt Service Payment Date. Upon payment of all debt service on the Bonds any excess money in the Bond Fund and accounts therein shall be remitted at the direction of the Authority in accordance with the Interlocal Agreement and the Resolution.

Section 6. Paying Agent Reports. Not later than 45 Business Days following each Debt Service Payment Date, the Paying Agent shall prepare and file with the Authority a report setting forth: (i) amounts withdrawn from and deposited into each fund and account maintained by the Paying Agent under this Depository Agreement; (ii) the balance on deposit in each fund and account as of the Debt Service Payment Date for which such report is prepared, and (iii) a brief description of all obligations held as investments in each fund and account. Copies of such reports may be mailed or delivered to any registered owner of any Bond upon the registered owner's written request, at a cost not to exceed the Paying Agent's actual costs of duplication and mailing or delivery.

The Paying Agent agrees to cooperate fully with any consultant hired or appointed by the Authority to certify compliance with any State or Federal tax requirements and promptly to provide any information requested.

Section 7. Excess Funds. Any money deposited with and held by the Paying Agent pursuant to this Depository Agreement or the Resolution necessary for the payment of the principal of or interest on the Bonds and not so applied to the payment of Bonds shall be held for a period of five years from the date such Bonds shall have become due, either at maturity or upon earlier redemption shall be remitted by the Paying Agent pursuant to the Uniform Unclaimed Property Act, RCW 63.29, as amended, or its successor. In the event the Uniform Unclaimed Property Act, as amended or its successor, should require by law other action to be taken by the Paying Agent, then the Paying Agent shall comply with such law and this Section shall be deemed amended accordingly. After the payment of the unclaimed principal and interest pursuant to the

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Uniform Unclaimed Property Act, the Paying Agent's liability for payment to the owner or holder of such bond shall forthwith cease, terminate and be completely discharged and thereafter the owner or holder shall be restricted exclusively to his or her rights of recovery provided under the Uniform Unclaimed Property Act. The City and the Authority shall not hold the Paying Agent liable for any interest on the sums paid to it pursuant to this section and shall not be regarded as a trustee or trustees of such money.

Section 8. Incidental Costs. Any expenses incurred by the Paying Agent in connection with any exchange or transfer of money held by it hereunder shall be paid by the Authority.

Section 9. Funds of Paying Agent. The Paying Agent is not required to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties, or in the exercise of any of its rights or powers.

Section 10. Indemnification. To the extent permitted by law, the Authority agrees to indemnify the Paying Agent for, and hold it harmless against, any loss, liability or expense incurred without negligence or willful misconduct or bad faith on the part of the Paying Agent, its directors, officers, employees and/or agents, arising out of the proper performance of its duties under this Depository Agreement and which may not be attributed to any act or omission of the City, its officers, employees and/or agents, including the reasonable costs and expenses of defending itself against any claim or liability in connection therewith.

In the event that the Authority is called upon to indemnify or hold harmless the Paying Agent, as described above, the Authority may at its absolute discretion direct the course of all and any aspects of the claim, dispute or litigation in which the Paying Agent is involved and may, without limiting the generality of the foregoing, appoint and instruct attorneys to act exclusively on its and/or the Paying Agent's behalf, negotiate and agree to any compromise or settlement, and have full control over any judicial or appeal process and all rights relating thereto, provided, that the Authority shall reasonably consider the advice of the Paying Agent as to the defense of such claims, and the Paying Agent shall have the right to participate in such defense, though control of

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such litigation and settlement shall remain with the Authority; provided further, however, that the Authority shall not agree to any settlement requiring action of the Paying Agent without the prior approval of the Paying Agent (such approval not to be unreasonably withheld). If any such claim is made hereunder and the Authority gives notice to the Paying Agent of its intention not to defend such claim (which notice shall be given within a time period which does not prejudice the rights of the Paying Agent), the Paying Agent shall be entitled to control such litigation and settlement and shall be entitled to indemnity with respect thereto pursuant to the terms of this Section 10, but only to such extent of the damages and costs (including attorneys' fees) which it incurs as would have been payable by the Authority under these indemnity provisions had the claim been admitted and not defended.

The Paying Agent shall promptly render to the Authority all such assistance as the Authority or its attorneys may request, including but not limited to, access to documents and records of any nature whatsoever which relate to the claim, dispute or litigation, and access to the Paying Agent's directors, officers, employees and/or agents.

As soon as the Paying Agent becomes aware of the existence of any actual or possible claim which might entitle it to seek the benefit of the provisions of this Section 10, it shall promptly give notice in writing of the same to the Authority. When such notice has been given, each of the Paying Agent and the Authority shall keep the other fully informed of all matters pertaining to the claim, dispute or litigation, and the Paying Agent shall ensure that no admission of liability nor any act which might constitute a waiver of any privilege, nor proposal for, or consent to, any settlement or compromise of the dispute or litigation shall be transmitted to the adverse party without the same having been submitted to and approved in writing by, the Authority.

The Paying Agent's rights to immunities and protection from liability hereunder and its rights to payment of its fees and expenses shall survive its resignation or removal and final payment or defeasance of the Bonds.

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Section 11. Paying Agent's Good Faith Reliance on Documents. The Paying Agent shall be protected and shall incur no liability to the City or the Authority in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of the Resolution, upon any resolution, order, notice, request, consent or waiver, certificate, statement, affidavit, or other paper or document which it shall, in good faith, reasonably believe to be genuine and to have been adopted or signed by the proper person, or to have been prepared and furnished pursuant to any provision of the Resolution and the Paying Agent shall not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument except in the case of manifest error or unreasonableness.

Section 12. Offering Materials. Without limitation upon the foregoing provisions, the Paying Agent shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or other disclosure material, prepared or distributed with respect to the Bonds (save with respect to details of any funds and accounts in existence prior to the date of this Interlocal Agreement which it may have provided to the City and/or the Authority's accountants).

Section 13. Liability with Respect to Investment of Funds. The Paying Agent shall not be liable or responsible for any loss resulting from changes in the market value of any investment of any funds properly made in accordance with the Resolution and this Depository Agreement.

Section 14. Reliance on Counsel. The Paying Agent may consult with counsel approved by the parties hereto (which approval shall not be unreasonably withheld) with regard to legal questions. The opinion of such counsel shall be a full and complete authorization and protection in respect of any action taken or suffered by the Paying Agent hereunder in good faith and in reliance upon such opinion; provided, that such reliance shall not relieve the Paying Agent of any liability it has for its negligence or willful conduct under this Depository Agreement. If the Paying Agent consults counsel other than counsel of or to the Authority, then, prior to the time such action is taken or suffered by the Paying Agent, the Paying Agent shall inform the Authority

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in writing of the nature of the legal questions upon which the Paying Agent has sought counsel and the course of action with respect to those questions which the Paying Agent intends to take.

Section 15. Rebate Amount. The Authority shall have the full responsibility for calculation of the Rebate Amount and the Paying Agent shall have no such responsibility.

Section 16. Taxes. The Authority will pay for all taxes, if any, to which this Depository Agreement is or may hereafter become subject.

Section 17. Enforcement of Defaults. The Paying Agent shall have no responsibility for enforcing a default in the performance of any covenant or agreement contained in the Resolution.

Section 18. Amendments to Depository Agreement. This Depository Agreement may be amended only by the Authority, the City and the Paying Agent by a writing signed by the Authority, the City and the Paying Agent.

Section 19. Amendment to Resolution. There shall be no amendment to the Resolution which will affect the rights or duties of the Paying Agent without the written approval of the Paying Agent, which approval shall not be unreasonably withheld. The Authority agrees to furnish to the Paying Agent a copy of any amendment to the Resolution, whether or not the consent of the Paying Agent is required pursuant to the preceding sentence.

Section 20. Replacement of Paying Agent. The Paying Agent may resign, or the Authority may terminate the Paying Agent at any time, by giving thirty (30) days' written notice of such resignation to the Authority by registered or certified mail. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor paying agent by an instrument in writing. No resignation of the Paying Agent shall become effective until appointment of a successor paying agent by the Authority and a full accounting has been provided to and approved by the Authority, together with a transfer of all funds of the Authority on deposit to the successor paying agent. If no paying agent shall have been appointed and have accepted appointment within 45 days of giving notice of removal or notice of resignation as aforesaid, the resigning paying agent may petition any court of competent jurisdiction for the appointment of a successor.

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Section 21. No Third Party Beneficiaries. The terms and conditions of this Depository Agreement are intended for the benefit of the Authority, the City and the Paying Agent exclusively, and are not intended to give any third party any right or claim, contractual or otherwise, hereunder.

Section 22. Washington Law. This Depository Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

Section 23. Fees of the Paying Agent. The reasonable fees of the Paying Agent shall be paid by the Authority from money other than those which are deposited in the Bond Fund.

Section 24. Notices. Except as expressly provided otherwise herein, any request, demand, authorization, direction, notice or other communication required or permitted by this Depository Agreement shall be sufficiently given if in writing addressed and mailed certified mail, return receipt requested, postage prepaid to the appropriate parties at the following addresses (or such other address as may be provided by any party by notice) and shall be deemed to be effective upon receipt:

If to the Paying Agent:

Fax: _____
Telephone: _____

If to the Authority:

Pike Place Market Preservation
and Development Authority
85 Pike Street
Seattle, Washington 98101
Attention: Executive Director
Telephone: 682-7453
Fax: 625-0646

If to the City:

Office of Management and Planning
The City of Seattle
3rd Floor, Municipal Building
Seattle, Washington 98104
Attention: Director
Fax: 233-0085
Telephone: 684-8080

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Any of the foregoing may, by notice given hereunder to each of the others designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Depository Agreement to be duly executed by their duly authorized officers or representatives as of the date first written herein above.

PIKE PLACE MARKET PRESERVATION
AND DEVELOPMENT AUTHORITY

By _____
Shelly Yapp,
Executive Director

THE CITY OF SEATTLE

Norman B. Rice, Mayor
The City of Seattle, Washington

By _____
Trust Officer

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FIRST AMENDMENT TO INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF SEATTLE AND PIKE PLACE MARKET
PRESERVATION AND DEVELOPMENT AUTHORITY

THIS FIRST AMENDMENT (the "Amendment") to the Interlocal Cooperation Agreement between The City of Seattle and Pike Place Market Preservation and Development Authority dated as of November 1, 1991 is made as of April 1, 1996 between THE CITY OF SEATTLE (the "City"), a municipal corporation of the State of Washington, and THE PIKE PLACE MARKET PRESERVATION AND DEVELOPMENT AUTHORITY (the "Authority"), a public corporation chartered by the City.

BACKGROUND AND RECITALS

On November 13, 1991, the Authority issued its Special Obligation Bonds, Series 1991A and 1991B, in the aggregate principal amount of \$7,525,000. The City guaranteed the payment of such bonds pursuant to an Interlocal Cooperation Agreement between the City and the Authority dated as of November 1, 1991 (the "Agreement"). The 1991B Bonds have been redeemed, and the 1991A Bonds remain outstanding in the aggregate principal amount of \$6,250,000. The Authority now has the opportunity to issue its Special Obligation Refunding Bonds, 1996 in the aggregate principal amount of not to exceed \$7,500,000 (the "Refunding Bonds") in order to advance refund the 1991A Bonds maturing on and after December 1, 2002 (the "Refunded Bonds"). The Refunded Bonds will be called for redemption on December 1, 2001 at a price of par. Such refunding will enable the Authority to realize a significant debt service savings which will relieve the City of a corresponding amount of its obligation under the Agreement.

The purpose of this Amendment is to affirm the City's remaining guarantee obligation under the Agreement with respect to the 1991A Bonds which will not be defeased or refunded and to extend such guarantee obligation to the Refunding Bonds. The City's guarantee will enable the Authority to sell the Refunding Bonds at a lower interest rate and thereby reduce the debt service payable thereon by the Authority.

Section 1. Amendments to Article II of the Agreement.

- A. Article II of the Agreement shall be amended by adding the following definitions:
1. "Commission" means the Securities and Exchange Commission.
 2. "1991 Bonds" means the Authority's Outstanding Special Obligation Bonds, Series 1991A.
 3. "MSRB" means the Municipal Securities Rulemaking Board or any successor to its functions.

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4. "NRMSIR" means a nationally recognized municipal securities information repository.

5. "Refunding Bonds" means the obligations of the Authority issued pursuant to the Refunding Bond Resolution, to be guaranteed by the City as authorized in Ordinance ____.

6. "Refunding Bond Resolution" means Resolution No. 96-11 of the Authority authorizing the issuance of special obligation revenue refunding bonds for the purpose of refunding a portion of the 1991 Bonds.

7. "Rule" means the Commission's Rule 15c2-12 under the Securities and Exchange Act of 1934, as the same may be amended and administratively and judicially interpreted, from time to time.

8. "SID" means a state information depository for the State of Washington.

9. "Supplemental Depository Agreement" means the agreement dated as of April 1, 1996, among the Authority, the City and the Paying Agent, with respect to the deposit of certain funds pledged to the payment of the Refunding Bonds.

B. The following terms contained in Article II of the Agreement shall be amended to read as follows:

1. "Bonds" means the obligations of the Authority issued pursuant to the Bond Resolution, to be guaranteed by the City as authorized in Ordinance 115724, as amended by Ordinance 115780 and the Refunding Bonds.

2. "Depository Agreement" means, the agreement dated as of November 1, 1991 among the Authority, the City, and the Paying Agent, with respect to the deposit of certain funds pledged to the payment of the Bonds and the Supplemental Depository Agreement.

3. "Bond Resolution" means resolution 91-63 of the Authority authorizing the issuance of special obligation revenue bonds for the purpose of providing the funds necessary to settle the litigation over the control of the Market, to discharge certain outstanding mortgages of the Authority with respect to the Market, and to pay certain costs associated with financing and settling the lawsuit and the Refunding Bond Resolution.

Section 2. Use of Refunding Bond Proceeds. A new Section IIIA is added to the Agreement to read as follows:

ARTICLE IIIA. Use of Refunding Bond Proceeds.

The proceeds obtained from the sale of the Refunding Bonds shall be used only for the following purposes: (1) to pay the interest on the 1991 Bonds maturing in the years 2002 through

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2021 on and before December 1, 2001 and to pay the redemption price thereof on December 1, 2001, and (2) to pay the cost of issuing the Refunding Bonds.

Section 3. Requirements of Refunding Bonds. A new Section IVA is added to the Agreement to read as follows:

The Refunding Bonds shall meet all of the following requirements:

- A. The total principal amount of the Refunding Bonds shall not exceed \$7,500,000.
- B. The total annual debt service of the Authority for the 1991 Bonds and the Refunding Bonds shall not exceed \$600,000 per year.
- C. The final maturity date of the Refunding Bonds shall be no later than December 1, 2021.
- D. The present value savings realized from the issuance of the Refunding Bonds shall not be less than \$287,750.
- E. The Refunding Bonds shall be issued no later than December 31, 1996.

Section 4 Reserves. A new Article XXVI is added to the Agreement, to read as follows:

Capital Repair and Replacement Fund; Debt Service Reserve Fund.

- A. Capital Reserve and Replacement Fund. The Authority hereby agrees with the City that its previously created special fund entitled "Capital Repair and Replacement Fund" (the "CRRF"), shall be maintained, replenished and used subject to the following terms and conditions:
 1. As of March 1, 1996, the amount on deposit therein was \$1,150,000;
 2. Interest earnings thereon shall remain on deposit therein;
 3. The Authority covenants to include in its annual budget for deposit into the CRRF an amount so that at the end of each fiscal year, taking into account the beginning balance therein and anticipated expenditures for repair and replacement to be paid therefrom, there will be a projected remaining balance therein of no less than the lesser of (a) one-fifth of the annual average of the current five year capital expenditure plan of the Authority or (b) \$300,000 (the "Capital Reserve Requirement");
 4. Amounts on deposit in the CRRF shall be used in the following order of priority, first, to make deposits in accordance with the Depository Agreement with

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respect to the Refunding Bonds no later than ten Business Days prior to the date on which principal of and/or interest on the Refunding Bonds is due and payable (the "Debt Service Payment Date") in the event that on the first Business Day of the month prior to such Debt Service Payment Date there is a shortfall in the Bond Fund held under the Depository Agreement with respect to the amounts due and payable on the Refunding Bonds on such Debt Service Payment Date, and second, for repairs and replacements to the Market;

5. The Authority (a) shall annually report to the City regarding the balance in the CRRF, (b) shall notify the City immediately if the amount on deposit therein is less than the Capital Reserve Requirement, and (c) so long as the amount on deposit in the CRRF is less than the Capital Reserve Requirement shall notify the City prior to making any expenditures from the CRRF.

B. Debt Service Reserve Fund. Upon payment in full of the 1991 Bonds, the amount held in the Reserve Fund by the Depository with respect to the 1991 Bonds shall be remitted to the Authority and shall be deposited by the Authority in a special fund of the Authority to be known as the "1996 Debt Service Reserve Fund." Amounts on deposit in the 1996 Debt Service Reserve Fund shall be remitted to the Depository in accordance with the Depository Agreement with respect to the Refunding Bonds no later than ten Business Days prior to a Debt Service Date in the event that on the first Business Day of the month prior to such Debt Service Debt there is a shortfall in the Bond Fund held under the Depository Agreement with respect to the amounts due and payable on the Refunding Bonds on such Debt Service Payment Date. The Authority shall maintain in the 1996 Debt Service Reserve Fund an amount that is not less than one-half of the maximum annual debt service on the then outstanding Refunding Bonds and shall report annually to the City regarding the balance therein. If the amount therein is less than the required amount at any time, the Authority shall immediately give notice thereof to the City. Amounts in excess of this minimum requirement may be transferred from the 1996 Debt Service Reserve Fund and used for any lawful purpose of the Authority. Upon establishment and funding of the 1996 Debt Service Reserve Fund, the covenants contained above with respect to the Capital Reserve Requirement and the CRRF shall no longer apply.

C. It is acknowledged and understood by the parties hereto that the Authority will make monthly payments to the Depository with respect to principal and interest due on the Refunding Bonds so that by the first Business Day of the month prior to a Debt Service Payment Date, there will be on deposit in the Bond Fund the amounts necessary to pay the principal and interest due and payable on such Debt Service Payment Date. At the request of the Authority and the concurrence of the City, the amounts established above to be budgeted for and deposited into the CRRF or the 1996 Debt Service Reserve Fund may be reduced or eliminated. The obligations of the Authority in this section are intended for the exclusive benefit of the City and are not intended to give any third party any right or claim, contractual or otherwise, hereunder.

Section 5. Ongoing Disclosure. A new section Article XXVII is added to the Agreement entitled "Continuing Disclosure" due to the City being an "obligated person" with respect to the Refunding Bonds under the Rule, to read as follows:

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Undertaking to Provide Ongoing Disclosure.

A. Contract/Undertaking. This section constitutes the City's written undertaking (the "Undertaking") for the benefit of the owners of the Refunding Bonds as required by Section (b)(5) of the Rule. The Authority shall comply with its continuing disclosure obligations contained in the Bond Resolution. The City as an "obligated person" within the meaning of the Rule undertakes to provide or cause to be provided, either directly or through a designated agent:

(1) to each NRMSIR designated by the Commission in accordance with the Rule and to the SID, if one is established in the state of Washington and recognized by the Commission annual financial statements of the City prepared in accordance with generally accepted accounting principles promulgated by the Government Accounting Standards Board ("GASB"), as such principles may be changed from time to time by GASB or its successor, which financial statements will not be audited, except that if and when audited financial statements are otherwise prepared and available to the City they will be provided.

Annual financial information, as described above, will be so provided to each NRMSIR and the SID, not later than the last day of the ninth month after the end of each fiscal year of the City (currently a fiscal year ending December 31), as such fiscal year may be changed as permitted or required by state law, commencing with the City's fiscal year ending December 31, 1996. The annual financial information may be provided in a single or in multiple documents, and may be incorporated by reference from other documents that have been filed with each NRMSIR and the SID, or, if a document incorporated by reference is a "final official statement" with respect to other obligations of the City, that document shall instead be filed with the MSRB.

(2) to each NRMSIR or to the MSRB and to the SID timely notice of a failure by the City to provide the required annual financial information specified in paragraph (1) above.

The Undertaking may be amended without the consent of any owner of any Refunding Bond, any broker, dealer, municipal securities dealer, participating underwriter, rating agency, NRMSIR, the SID or the MSRB, under the circumstances and in the manner permitted by the Rule. The City will give notice to each NRMSIR or the MSRB, and the SID of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the notice also will include a narrative explanation of the effect of that change on the type of information to be provided.

If the City fails to comply with this Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected as soon as practicable after the City learns of that failure. No failure by the City or other obligated person to comply with this Undertaking shall constitute a default with respect to the Refunding Bonds. The remedy of any owner of a Refunding Bond will be to take such actions as that owner deems necessary and appropriate to compel the City or other obligated person to comply with this Undertaking.

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This Undertaking shall inure to the benefit of the City and any owner of the Refunding Bonds, and shall not inure to the benefit of or create any rights in any other person.

B. The City's obligations under the Undertaking described in subsection A immediately above shall terminate upon the legal defeasance of all of the Refunding Bonds. In addition, the City's obligations under the Undertaking shall terminate if those provisions of the Rule which require the City to comply with the Undertaking become legally inapplicable with respect to the Refunding Bonds for any reason, as confirmed by an opinion of nationally recognized bond counsel or other counsel familiar with federal securities laws delivered to the City, and the City provides timely notice of such termination to the SID and either the MSRB or each NRMSIR.

Section 6. Confirmation. All terms and conditions of the Agreement that are not modified herein are hereby ratified and confirmed.

Section 7. Effective Date. This Amendment shall become effective upon execution by the Mayor and the chairman of the Council of the Authority.

IN WITNESS WHEREOF, the City and the Authority have executed this Amendment this day of _____, 1996.

THE CITY OF SEATTLE

By _____
Mayor

Pursuant to the authority of
Ordinance _____

PIKE PLACE MARKET PRESERVATION
AND DEVELOPMENT AUTHORITY

By _____
Its _____

Pursuant to resolution _____

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City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor



DATE: March 27, 1996

TO: Councilmember Jan Drago, Chair

FROM: Tom Tierney, Director *TT by JC*
Office of Management and Planning

SUBJECT: **Proposed Legislation - Pike Place Market Preservation and Development Authority refunding bond issue.**

The attached ordinance will authorize the City to guaranty a refunding bond issue by the Pike Place Market Preservation and Development Authority. These bonds will refund \$5,755,000 in bonds issued by the Authority in 1991 and previously guaranteed by the City.

Section 1 contains the circumstances regarding the original bond issue in 1991 and explains that the City will reduce its obligation by such a action.

Section 2 outlines the scope of the City's guarantee as recommended by the City Debt Management Policy Committee in their review of the request at their March 13 meeting. These requirements are consistent with City policy regarding refunding of city bonds. The proposed depository agreement is attached as Exhibit A.

Section 3 authorizes the Mayor to amend the existing Interlocal Cooperation agreement to reflect the refunding action, addressing reserve and reporting requirements. The proposed amendment is attached to this ordinance as Exhibit B.

If you have any questions or need additional information regarding this ordinance, please contact JoAnne Cowan, Public Development Authority Coordinator at 684-8064. Your approval of this ordinance is respectfully requested.

hadmin:legis:coverltr:pdabond

Accommodations for people with disabilities provided on request. An equal employment opportunity - affirmative action employer.
Office of Management and Planning 300 Municipal Building, Seattle, Washington 98104-1826
(206) 684-8000 • (TDD) 684-8118 • FAX (206) 233-0085

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City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor

March 20, 1996

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Office of Management and Planning

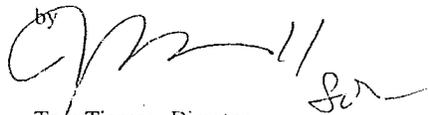
SUBJECT: AN ORDINANCE relating to the Pike Place Market Preservation and Development Authority; authorizing the City to guaranty with its full faith and credit a proposed bond issue of the Authority to refund a portion of Authority bonds which the City previously had guaranteed; authorizing an amendment to the existing interlocal agreement with the Authority, and providing for certain other matters in connection therewith.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to JoAnne Cowan at 4-8064.

Sincerely,

Norman B. Rice
Mayor

by 

Tom Tierney, Director

legis/cowan2

Enclosure



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STATE OF WASHINGTON - KING COUNTY

66728
City of Seattle, City Clerk

-ss.

No. ORD IN FULL

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:ORD 118080

was published on

04/12/96

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

Subscribed and sworn to before me on

04/16/96

Notary Public for the State of Washington,
residing in Seattle

Affidavit of Publication

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