

Ordinance No. 122817

Council Bill No. 116323

AN ORDINANCE relating to the Surplus Allen School/Phinney Neighborhood Center; authorizing the Mayor to enter into a contract with the Phinney Neighborhood Association; and removing a budget proviso that restricted an appropriation in the 2008 Adopted Budget contingent upon execution of such contract.

CF No. _____

Date Introduced:	9.8.08	
Date 1st Referred:	To Planning, Land Use & Neighborhoods (PLUNC)	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: 9-0	
Date Presented to Mayor:	Date Approved: 10.8.08	
Date Returned to City Clerk:	Date Published: 2	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Samy J. Lerner
Councilmember

Committee Action:

~~APPROVED~~ ~~APPROVED~~ ~~APPROVED~~ DUY

NO VOTE 9/18/8 WON

9/24/8 APPROVE AS Amended 3-0 SC, TR, RE DUY

9-29-08 Passed 9-0

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

Law Department

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 2, 2008

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

Dear Council President Conlin:

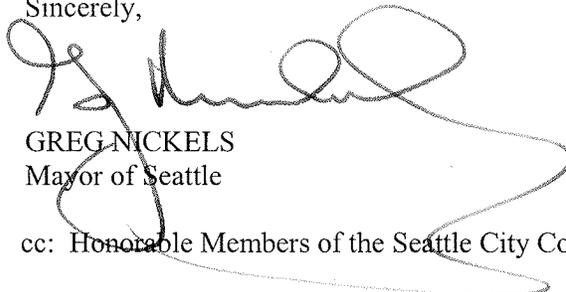
I am pleased to transmit the attached proposed Council Bill that removes a budget proviso restricting an appropriation in the 2008 Finance General budget for the Phinney Neighborhood Association (PNA).

The PNA was founded in 1980 by area neighbors and is dedicated to improving the quality of life for residents of northwest Seattle. PNA's mission is to build community by providing and promoting programs, services and activities aimed at connecting neighbors and fostering civic involvement in their diverse community. On June 6, 2007, the Seattle School Board declared several properties surplus to the District's needs, including the Allen School, which has been occupied by PNA since the school was closed in 1981. The PNA has completed purchase and sale negotiations with the District and is ready to purchase the school.

As part of the 2008 Budget process, the City Council adopted a budget proviso restricting the expenditure of funds for the PNA until authorized by future ordinance. The Office of Policy of Management has determined the PNA is ready to receive City funding for this project and acquire the property, and has negotiated a contract with the PNA that will be executed before funds are released by the City. The Office of Policy and Management is scheduled to brief the Council's Planning, Land Use and Neighborhoods Committee on the terms of the agreement on September 10.

The PNA has served as an important neighborhood institution for the past 28 years, and this legislation will allow the PNA to continue to fulfill its community mission at the Allen School. We thank you for your consideration of this legislation. Should you have questions, please contact Paul Fischburg in the Office of Policy and Management at 684-8395.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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Department	2008 Green Sheet	Proviso Description	BCL Code
Finance General	139-1-A-1	"None of the money appropriated for 2008 for Finance General Support to Community Development BCL may be spent for the Phinney Neighborhood Association until authorized by a future ordinance. The Council anticipates that such authority will not be granted until a contract for public benefits is executed."	Support to Community Development (6XD10)

Section 3. Any act consistent with the authority of this ordinance taken after the passage of this ordinance and prior to its effective date is hereby ratified and confirmed.

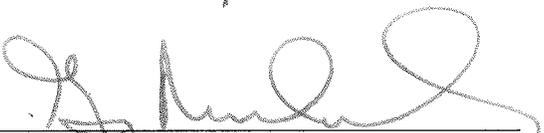
Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 29th day of September 2008, and signed by me in open session in authentication of its passage this 29th day of September 2008.



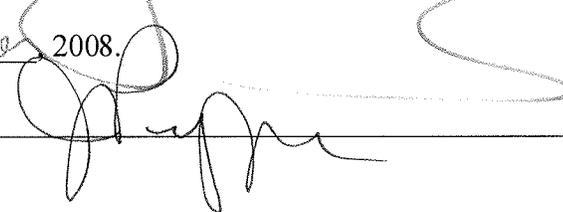
President _____ of the City Council

Approved by me this 8 day of October 2008.



Gregory J. Nickels, Mayor

Filed by me this 8th day of October 2008.





City Clerk

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(Seal)

Attachment 1 –Term Sheet between City of Seattle and Phinney Neighborhood Association

Exhibit A to Attachment 1 – Property and Facility Description

Exhibit B to Attachment 1 – Phinney Neighborhood Association – Level of Service



ATTACHMENT 1

Term Sheet Between City of Seattle and Phinney Neighborhood Association

Parties: The City of Seattle (the "City") acting through its Director of the Office of Policy and Management (the "Director") unless specified otherwise in the Agreement and the Phinney Neighborhood Association (the "Agency").

Agency Service Agreement: The Parties hereby agree to enter into an Agency Service Agreement (the "Agreement") substantially conforming to the Terms contained herein upon approval of the Seattle City Council and upon completion of said Agreement.

Service Location: The Phinney Neighborhood Center is comprised of two buildings known as the former John B. Allen Elementary School (the "Facility"), located on an approximately 2.5 acre site at 6532 Phinney Avenue N. Seattle, Washington 98103 (the "Property"). The Legal Description and map of the property is contained in Exhibit A. The Facility is 45,940 gross square feet.

Contract Amount: The Contract Amount shall be \$2,500,000.

Term of the Agreement: From the date of execution until the date 15 years from the date of execution.

General Description of Services: Agency agrees to operate and maintain the Property as a Community Center on a non-discriminatory basis that is open to the public. Exhibit B sets forth the definition of "Community Center" consistent with the 27-year history of the Agency's operations at the Property.

Level of Service: Agency agrees to provide Services consistent with the Type of Services outlined in Exhibit B at a level similar to or above the current Level of Service provided by the Agency in the Facility and at the Property. Exhibit B establishes benchmarks that describe the current Level of Service.

Services Provided by Subcontractors: Any and all Services contemplated by the Agreement and provided by subcontractors shall be subject to the Terms of the Agreement as if they were provided by the Agency.

Changes in Types of Services or in Level of Service provided: If the Agency wishes to 1) Eliminate Types of Services outlined in Exhibit B or reduce the Level of Service provided at the Property or in the Facility by 10% or more below the Benchmarks outlined in Exhibit B, or, 2) if the Agency wishes to convert some portion greater than 10% of the gross area of the Property or the gross area of the Facility to an alternative use that is not within the Community Center description, the Agency shall request, in writing to the City, to make such change. Such written request shall include, as applicable, A) a list of eliminated Services, B) a description of any new Types of Services, C) the square footage of the Property and of the Facility that the new Service will occupy, D) the square footage of the Property and of the Facility being removed from Community Center Use, E) proposed new and reduced Level of Service benchmark(s) for Level of Service, and F) an explanation of why permission to change from Community Center use or Level of Service is being sought.



The City, acting through the Director of the Office of Policy and Management, shall review and recommend approval or rejection of the proposed change in writing within 45 days of receipt of said request. Final approval shall require an Ordinance passed by the City Council.

Condition of the Facility: Agency agrees to maintain the Facility in good repair and at a minimum, consistent with the Agency's current building maintenance standards. In addition, Agency agrees to create a separate replacement reserve account (the "Replacement Reserve") with an initial minimum capitalization of \$10,000 and minimum annual deposits of \$1,000. Funds in the Replacement Reserve shall be used solely for the replacement and/or significant repair of building systems and structural components of the Facility as they may be necessary from time-to-time during the Term of the Agreement.

Security: To provide security to the City that the Agency will provide the agreed upon Services for the Term of the Agreement, the Agency will execute a Deed of Trust recorded against the Property for the full amount of the Contract and a Restrictive Covenant in which the Agency covenants that the use of the Property and the Facility will be restricted to Community Center uses as described in Exhibit B.

Termination: The Agreement can be terminated for cause only. If the Agency breaches the Agreement and does not cure the breach after being given a reasonable cure period, the City has the right to terminate the Agreement. Upon termination, liquidated damages will be due to the City on a straight line prorata basis ($\$2,500,000/180$ months x the number of months remaining in the Term of the Agreement). The City shall have the right to foreclose on the Deed of Trust to ensure payment of liquidated damages.

Payment: The City shall make one disbursement. \$2,500,000 is to be disbursed into escrow at closing of the Agency's purchase of the Property.

Alternatively, Agency may choose to use up to \$332,000 of the \$2,500,000 toward building renovation. Under that scenario the City shall make one initial disbursement of approximately \$2,168,000. The balance of \$332,000 will be disbursed based on invoices demonstrating the required scope of renovation work has been completed. A scope of work for the building renovation will be attached to the Agreement. Funds will be disbursed no more frequently than monthly as approved invoices are received by the City for work completed to the satisfaction of the Agency and the City.

Conditions precedent to payment: Funds will be made available by the City to the Agency only after the following conditions are met:

- City is satisfied after reviewing Agency's organizational structure and operating procedures that Agency is prepared to own and manage the facility and provide the Services contemplated in the Agreement (first disbursement);
- City is satisfied after reviewing project plans, building condition reports and surveys and financial plans, that Agency is prepared to undertake and pay for the acquisition and renovation of the building such that the City can be reasonably assured of a 15-year life of the Facility and its major building systems (first disbursement);
- City and Agency execute the Agreement conforming to the terms outlined herein (first disbursement);
- Agency delivery to City of a signed Purchase & Sale Agreement for the Property, an estimated settlement statement and escrow instructions prepared by an escrow officer licensed and registered in the State of Washington (first disbursement);



- Agency executes and records a Deed of Trust and Restrictive Covenant against the Property both in form and content acceptable to the City and that secures the Agency's obligations to the City consistent with the Agreement. The Deed of Trust shall be senior to any other encumbrances (first disbursement);
- If the Agency chooses to use a portion of the funding for renovation work, Agency must provide invoice(s) for renovation work and certification that work covered by the invoice(s) has been completed to Agency's satisfaction (subsequent disbursements, if any).

Reporting and Record Keeping: The Agency agrees to keep the following records for each calendar year during the term of the Agreement:

- All building repairs that exceed \$5,000;
- An accounting of deposits to and expenditures from the Replacement Reserve;
- Any notices of building code violations;
- Square footage of space in the Facility used as a Community Center and square footage of space not used as a Community Center;
- A list of programs offered at the Property in each of the following categories: 1) Youth Enrichment and Family support, 2) Arts and Education, 3) Community Service, and 4) Community Gathering and Meeting Space,
- List of space provided at no or reduced cost to community groups, and the value of that space provided at no or reduced cost; and
- Total number and total amount of scholarships and/or subsidies provided to low income program participants within the Facility.

The Agency will provide the City with a report summarizing the records described above upon request by the City but no more frequently than annually.

The parties have reviewed and agree to the terms outlined herein and understand that these terms shall provide the basis for an Agency Service Agreement to be prepared by the City for execution by the Agency and the City.



 John Smith, Board President
 Phinney Neighborhood Association



 Mary Jean Ryan, Director
 City of Seattle, Office of Policy and
 Management

Date: 9/24/08

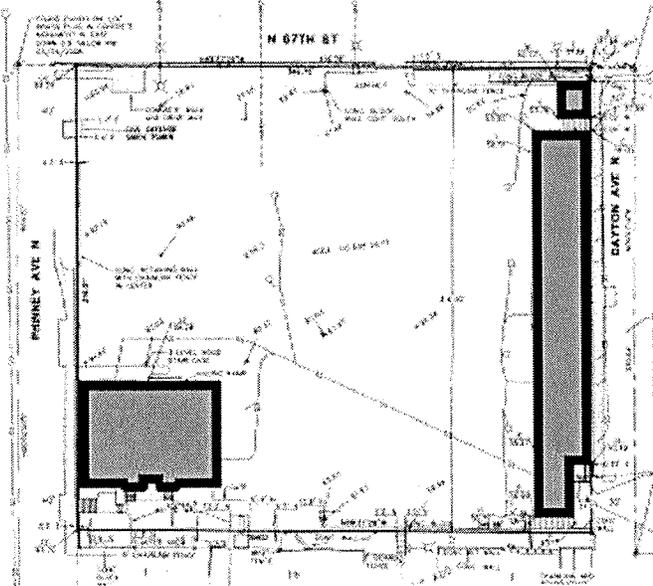
Date: 09/23/2008

Exhibit A to Attachment 1: Property and Facility Description
 Exhibit B to Attachment 1: Phinney Neighborhood Association - Level of Service



**EXHIBIT A TO ATTACHMENT 1
PROPERTY AND FACILITY DESCRIPTION**

The Property:



John B. Allen School property is located at 6532 Phinney Avenue North and 6615 Dayton Avenue North, Seattle, King County, Washington. According to the King County Assessor's office, the subject property is located at 6532 Phinney Avenue North. For tax purposes, the property is listed as one parcel of land encompassing 110,448 square feet (2.536 acres). The tax identification number of this parcel is 062504-9063.

Legal Description:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 25 NORTH, RANGE 4 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH BEARS NORTH 660 FEET AND EAST 200 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION;
THENCE EAST 460 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION;
THEN SOUTH 316 FEET;
THENCE WEST 460 FEET TO A POINT SOUTH OF THE POINT OF BEGINNING;
THENCE NORTH 316 FEET TO THE POINT OF BEGINNING;

AND EXCEPT PORTION CONDEMNED FOR PHINNEY AVENUE IN KING COUNTY SUPERIOR COURT CAUSE NO. 75070 AND AS PROVIDED FOR BY CITY OF SEATTLE ORDINANCE NO. 21629 AND AS AMENDED BY ORDINANCE NO. 34104;

AND EXCEPT ANY PORTION CONDEMNED FOR NORTH 67TH STREET IN KING COUNTY SUPERIOR COURT CAUSE NO. 91704 AND AS PROVIDED FOR BY CITY OF SEATTLE ORDINANCE NO. 28830;

AND ALSO EXCEPT PORTION CONDEMNED FOR DAYTON AVENUE IN KING COUNTY SUPERIOR COURT CAUSE NO. 173928 AND AS PROVIDED BY CITY OF SEATTLE ORDINANCE NO. 46316.

The Facility:

The facility consists of 2 buildings. The first building, located along the southwest portion of the property at an address of 6532 Phinney Avenue North, is a 3-story structure with a brick foundation, wood exterior siding, metal- and wood-framed



windows, and pitched roof covered with composite asphalt shingles. This building was completed in 1904 and is comprised of 17,868 gross square feet.

The second building, located along the eastern portion of the property at an address of 6615 Dayton Avenue North, is a 3-story structure with a concrete foundation, brick exterior walls, wood- and metal-framed windows, and pitched roof covered with slate and composite asphalt shingles. This building was completed in 1918 and is comprised of 28,072 Gross square feet.



**EXHIBIT B TO ATTACHMENT 1
PHINNEY NEIGHBORHOOD ASSOCIATION - LEVEL OF SERVICE**

The **Phinney Neighborhood Center (PNC)**, operated by the Phinney Neighborhood Association, is a multi-purpose community center, located at the former John B. Allen Elementary School. It is a focus for the Phinney/Greenwood community and provides a wide variety of services to over 20,000 persons/year that come from throughout the Seattle area.

Community Center Defined: For the purposes of the Agency Service Agreement (the "Agreement") by and between the City of Seattle and the Phinney Neighborhood Association, the term "Community Center" shall refer to the following description of Services ("Type of Services") offered without discrimination to all members of the community seeking to participate in the Services offered. Reasonable fees in accordance with the tables below may be charged for participation.

Services to be Provided: The Agency shall, for the Term of the Agreement, continuously provide Services in all four of the following categories at the Levels described below. It is recognized by the Parties that the Type and Level of Service will vary to some extent over the Term of the Agreement.

1. Youth Enrichment and Family Support

Type of Service	Level of Service Benchmarks
Youth Enrichment – Before and After School child care	45 children/day; 10% receive financial aid.
Youth Enrichment – Summer Program	40-50 Children/day; 10% receive financial aid.
Independent Preschool Childcare	60-80 children/day.
Preschool Cooperative – early childhood development and parent support	80-85 children/week.
Classes & workshops for Youth & families	15-25% of hourly classroom use at the Center is for youth and family classes.

2. Arts and Education

Type of Service	Level of Service Benchmarks
Cultural Activities including theater, dance and music	25-30 concerts per year; 45-50 dances/year; each serving 100 people/event. Below market rent enables low cost entry fees.
Visual Arts – Gallery	Free monthly shows for 10 months/year Support given to 10-20 emerging area artists/year.
Arts and Crafts Classes	Varies.
Continuing Education Classes	60-80 classes offered/month. Catalog of classes and events published quarterly and distributed free to over 14,000 households.



3. Community Service

Type of Service	Level of Service Benchmarks
Community-building Events/Activities designed to bring people together to form connections and develop relationships and/or to raise funds for non-profit agencies	Monthly outreach and fundraising events such as potlucks, Halloween carnival, Dia de los Muertos celebration, crafts festival, home remodeling fair, etc. Numbers of people attending vary from 75 to 4,000.
Public Access Computers and WIFI	Hundreds of people use the free internet connections provided at the center each year.
Administrative Offices for Community Social Services. Types of services administered monthly include: Soup Kitchens; Senior Center; Childcare programs; collaborations with nearby shelters; Neighbors In Action, a volunteer core providing a variety of services to low income community residents.	15-20% of Facilities leased to not-for-profit social service agencies.

4. Community Gathering and Meeting Spaces

Use of space at the PNC is open to anyone regardless of race, religion, sexual orientation or special abilities.

Type of Service	Level of Service Benchmarks
Rooms at the PNC are available for lease, hourly rental, in-kind exchanges and free use to qualified community groups. Spaces are available for educational purposes, events, meetings, seminars and retreats	15,000 hourly rentals/year. \$800/month in room rental subsidies are provided.
Spaces may also be used for other purposes such as public or private schools, religious activities, a polling location, artist's studios, farmer's markets, food distribution and exchanges and non-profit agencies providing community service. Outdoor spaces are also available for similar uses where appropriate.	The PNC is used to support local agriculture by being a drop site for CSA's (community supported agriculture); hosting a weekly farmer's market for 5 months/year; acting as the weekly drop-off site for Food Life Line to area food banks.



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Office of Policy and Management	Paul Fischburg – 684-8395	Kristi Beattie 684-5266

Legislation Title: AN ORDINANCE relating to the Surplus Allen School/Phinney Neighborhood Center; authorizing the Mayor to enter into a contract with the Phinney Neighborhood Association; and removing a budget proviso that restricted an appropriation in the 2008 Adopted Budget contingent upon execution of such contract.

- **Summary of the Legislation:** The legislation requests that a budget proviso restricting the use of 2008 General Funds be removed.

Background: In adopting the 2008 Budget, the City Council passed Green Sheet 139-1-A-1, which included a budget proviso restricting the expenditure of funds appropriated to the Finance General budget for the Phinney Neighborhood Association. The proviso stated that “None of the money appropriated for 2008 for Finance General Support to Community Development BCL may be spent for the Phinney Neighborhood Association until authorized by a future ordinance. The Council anticipates that such authority will not be granted until a contract for public benefits is executed.” The Executive subsequently negotiated a Term Sheet which has been agreed to by both parties. Staff is finalizing a binding Agency Services Agreement with PNA that will formalize the terms outlined in the Term Sheet.

As part of Green 139-1-A-1, the City Council also place a proviso on funds for the University Heights Center for the Community Association (UHCCA). This proviso will remain in place until the Council grants authority to lift the proviso through a separate action.

- *Please check one of the following:*

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

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

Notes: This legislation lifts a restriction on the use of General Funds, which were appropriated in the 2008 Adopted Budget. The Bill does not appropriate any additional funds.

The 2008 Adopted Budget provided \$7,000,000 to provide financial assistance to four community organizations for the purchase and renovation of four Seattle School District surplus school facilities. Of this amount \$5,000,000 was placed under proviso by the City



Council, including \$2,500,000 for the Phinney Neighborhood Association and \$2,500,000 for the University Heights Center for the Community Association. This legislation requests that the proviso for the Phinney Neighborhood Association be lifted, while leaving the proviso relating to University Heights in place.

- **What is the financial cost of not implementing the legislation?** None.
- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** The Phinney Neighborhood Association offers a range of community-serving programs serving over 200,000 persons per year. Failure to support their acquisition and development of the Allen School Property could undermine their ability to continue to offer these services to the community over the long term.
- **Is the legislation subject to public hearing requirements:** No.
- **Other Issues** (including long-term implications of the legislation): None.

Please list attachments to the fiscal note below:

- Attachment 1: Green Sheet 139-1-A-1
Attachment 2: Draft Purchase & Sale Agreement between the Seattle school District and the Phinney Neighborhood Association
Attachment 3: Budget Summary for Acquisition and Improvements to the Allen School Property by the Phinney Neighborhood Association

2008 City Council Budget Action (Green Sheet)

Approved

Tab	Action	Option	Version
139	1	A	1

Budget Action Title: Add \$3 million GSF to Finance General for Phinney Neighborhood Association and University Heights Center for the Community Association and approve budget provisos.

Councilmember(s): Conlin; Della; Rasmussen
 Staff Analyst: Lee
 Council Bill or Resolution:

Budget Committee Vote:

Date	Result	SC	RC	DD	JD	JG	NL	RM	TR	PS
11/09/2007	Pass 9-	Y	Y	Y	Y	Y	Y	Y	Y	Y

Summary of Dollar Effect

See the following pages for detailed technical information

	2008 Increase (Decrease)
General Subfund	
General Subfund Revenues	\$0
<u>General Subfund Expenditure</u>	<u>\$3,000,000</u>
Net Balance Effect	(\$3,000,000)
Other Funds	
Other Fund Revenues	\$0
<u>Other Funds Expenditures</u>	<u>\$0</u>
Net Balance Effect	\$0
Total All Funds	
Total Budget Balance Effect	(\$3,000,000)

Description of proposed budget action:

This green sheet would add \$3 million GSF to Finance General Support to Community Development BCL for Phinney Neighborhood Association and University Heights Center for the Community Association and approve budget provisos.

Background: The City is interested in contracting for public benefits with the Phinney Neighborhood Association (which operates out of the Allen School) and the University Heights Center for the Community Association (which operates out of the University Heights School). The Phinney Neighborhood Association or its tenants offer the following services: preschool, soup kitchen, technology center, well home program, after-school programs, and classes, rehearsal and performance space for children and adult music, dance, martial arts, yoga and fitness, and adult education. The

* Has Proviso



<i>Tab</i>	<i>Action</i>	<i>Option</i>	<i>Version</i>
139	1	A	1

University Heights Center for the Community Association or its tenants offer the following services: University District Farmers Market, P-patch, day care, alternative junior high school, and classes, rehearsal and performance space for children's music, martial arts, and adult education.

With this addition of \$3 million, there will be a total of \$7 million in Finance General Support to Community Development. It is Council's intent that \$2.5 million is for Phinney Neighborhood Association and \$2.5 million is for University Heights Center for the Community Association.

This green sheet would also impose the following budget provisos:

"None of the money appropriated for 2008 for Finance General Support to Community Development BCL may be spent for the Phinney Neighborhood Association until authorized by a future ordinance. The Council anticipates that such authority will not be granted until a contract for public benefits is executed."

"None of the money appropriated for 2008 for Finance General Support to Community Development BCL may be spent for the University Heights Center for the Community Association until authorized by a future ordinance. The Council anticipates that such authority will not be granted until a contract for public benefits is executed."



Tab	Action	Option	Version
139	1	A	1

Budget Action Transactions

Budget Action Title: Add \$3 million GSF to Finance General for Phinney Neighborhood Association and University Heights Center for the Community Association and approve budget provisos.

Transaction Description	Position Title	Number of Positions	FTE	Dept	BCL or Revenue Source	Summit Code	Fund	Year	Revenue Amount	Expenditure Amount
Increase appropriation for Finance General Support to Community Development BCL School District Site Reserve				FG	School District Site Reserve	QD-tbd-sch	00100	2008		\$3,000,000



ATTACHMENT 2

PURCHASE AND SALE AGREEMENT ALLEN ELEMENTARY SCHOOL

This PURCHASE AND SALE AGREEMENT ("Agreement") is made as of this _____ day of _____, 2008, by and between The Seattle School District Number 1 ("Seller") and Phinney Neighborhood Association, a Washington nonprofit corporation, or its assignee as permitted under this Agreement ("Buyer").

BACKGROUND

A. Seller owns the property defined in Section 1 below (the "Property") and has determined that the Property is no longer required for school purposes.

B. Buyer and Seller are parties to that certain Lease dated March 1, 1999, as may be extended, renewed and / or amended (the "Lease"), under which Buyer currently occupies the Property.

C. Seller desires to sell the Property to Buyer, and Buyer desires to purchase the Property from Seller on the terms set out in this Agreement.

SECTION 1. SALE AND PURCHASE

Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to buy and pay for, the following properties and assets:

1.1 That certain real property commonly known as the Allen Elementary School Property located at 6532 Phinney Ave. N. Seattle, Washington and legally described in Exhibit A attached hereto and incorporated herein by reference, together with all rights, easements and appurtenances pertaining to such real property (all of such real property, rights and appurtenances herein referred to as the "Real Property");

1.2 All buildings, easements, rights, privileges, and improvements owned by Seller and belonging or appurtenant to the Real Property (collectively the "Improvements"); and

1.3 All furniture, fittings, apparatus, equipment, machinery, signage and other items of tangible personal property and replacements thereof, if any, owned by Seller and affixed or attached to, or used by Seller in connection with, the operation, maintenance, or management of the Improvements and all warranties, guaranties or similar representations with respect to any of the foregoing, whether from



manufacturers, distributors, retailers or other parties, (herein collectively referred to as the "Personal Property"); and

All of the foregoing items to be purchased under this Agreement shall be herein collectively referred to as the "Property."

SECTION 2. PURCHASE PRICE, EARNEST MONEY AND PAYMENT TERMS

2.1 Purchase Price and terms of Payment. The purchase price for the Property is Three Million, Fifty Thousand and No/100 Dollars (\$3,050,000) (the "Purchase Price"). The Purchase Price shall be due and payable upon Closing, defined in Section 7.1 below.

2.2 Additional Consideration. As additional consideration for the Property, Seller shall record upon Closing a Restrictive Use Covenant in the form attached hereto as Exhibit E restricting the use of the Property to certain uses determined to be of particular community benefit and granting Seller certain rights in the event Buyer ever chooses to redevelop or sell the Property.

2.3 Interest. As additional consideration for Seller's execution and delivery of this Agreement, Buyer agrees to pay an additional sum, equal to 4 percent (4%) per annum, simple interest, beginning November 15, 2008, if Closing has not occurred by that date, to the Closing Date, payable upon Closing.

2.4 Earnest Money Deposit. As consideration for Seller's execution and delivery of this Agreement, Buyer shall deposit with Seller in cash or immediately available funds an earnest money deposit in the amount of Fifteen Thousand and No/100 Dollars (\$15,000) at Chicago Title Insurance Company (the "Escrow Agent") in an interest-bearing account established specifically for this transaction. In the event Buyer elects to exercise its right to extend the Closing Date as described Section 7.2 below, Buyer shall no later than March 1, 2009 deposit with the Escrow Agent an additional \$35,000 in the same account (all amounts so deposited into such account, including interest thereon, the "Earnest Money"). The Earnest Money shall be non-refundable to Buyer except as specifically provided for herein and shall be applicable to the Purchase Price.

SECTION 3. UNCONDITIONAL OBLIGATIONS

3.1 Buyer's Approval Contingency. The obligations of Buyer under this Agreement are not dependent or contingent upon Buyer's inspections or obtaining financing to purchase and develop the Property.

3.2 Seller's Approval Contingency. Seller's obligations and agreements under this Agreement are conditioned upon (a) approval by the Board of Directors of Seattle School District Number 1, of King County, Washington of this Agreement and the transactions contemplated by it, and (b) completion and satisfaction of the publication,

appraisal and other requirements of RCW 28A.335.120. In the event that such conditions are not met and satisfied on or before the Closing Date, Seller may, in its sole discretion, terminate this Agreement by delivering written notice of its intention to so terminate to Buyer. In such event this Agreement shall terminate, the Earnest Money shall be returned to Buyer and the parties shall have no further obligations under this Agreement. Seller shall use commercially reasonable efforts to keep Buyer informed of the status of Seller's efforts to cause the satisfaction of the conditions to Seller's obligations set forth in this Section.

SECTION 4. WARRANTIES AND INDEMNIFICATION

4.1 **Seller's Warranties.** Seller represents and warrants to Buyer that the following facts are true as of the date of Seller's execution hereof, and will be true as of Closing:

4.1.1 **Authority.** Seller and the individual executing this Agreement on behalf of Seller have the full right, power and authority to execute this Agreement; the execution, delivery and performance of this Agreement have been duly authorized; and no other consent or action of any kind is required for the execution, delivery and performance of this Agreement by Seller.

4.1.2 **Validity.** This Agreement constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

4.1.3 **Actions.** There are no actions, suits, proceedings, orders or investigations pending or, to the best of Seller's knowledge, threatened against or affecting Seller which might adversely affect (i) the Property, (ii) Seller's performance under this Agreement, or (iii) the consummation of the transactions contemplated hereby.

4.1.4 **Condemnation.** Except as expressly provided herein, there are no existing or, to the best of Seller's knowledge, planned or threatened (i) condemnation or similar proceedings with respect to the Property or any part thereof, or (ii) public improvements in, about or outside the Property which might result in the imposition of any assessment, lien or charge against Seller, the Property or any owner of the Property.

4.1.5 **Receivership.** None of the following has occurred with respect to the Property or Seller: (i) appointment of a receiver, liquidator, or trustee; (ii) institution of any proceeding for dissolution or liquidation; (iii) filing of any petition for bankruptcy, or action toward reorganization; (iv) notice of default, trustee's sale, foreclosure or forfeiture.

4.1.6 **Defaults.** Seller is not in default under any agreement, deed of trust, mortgage, security agreement, resolution or decree, bond note, indenture, order or judgment to which it is a party or by which the Property is affected.

4.1.7 **Taxes.** All taxes and assessments and other governmental or quasi-governmental levies of any kind which are due for payment prior to the date hereof, the



non-payment of which would in any way affect the Property or any part thereof, or the Buyer's title thereto or in any way impose any liability on Buyer, have been paid, or shall be paid by Seller prior to or at Closing together with all interest and penalties thereon.

4.1.8 **Encumbrances.** To the best of Seller's knowledge, there are no liens, encumbrances, security interests, easements, rights-of-way, adverse claims or other exceptions to title affecting title to the Property other than the matters set forth in that certain title commitment issued by Chicago Title Company on February 28, 2008, attached hereto as Exhibit B. As used herein, "Seller's Knowledge" shall mean the actual knowledge of Seller's property manager and property leasing supervisor, who Seller represents are primarily responsible for the management of the Property.

4.1.9 **Unpaid Debt.** Seller has incurred no unpaid bills, claims, or liens by mechanics, materialmen, surveyors, consultants or others, recorded or unrecorded in connection with the Property.

4.1.10 **Assessments.** The Property is not affected by any special assessment, whether or not a lien thereon, which has not or will not be paid in full by Seller prior to Closing, nor does Seller know of any pending or contemplated assessments or similar charges which will affect the Property.

4.1.11 **Covenants.** Seller is not in default under any agreement, covenant, conditions or restrictions affecting the Property.

4.2 **Buyer's Warranties.** Buyer represents and warrants to Seller that the following facts are true as of the date of Buyer's execution hereof, and will be true as of Closing:

4.2.1 **Authority.** The person executing this Agreement on behalf of Buyer has full right, power and authority to execute this Agreement; the execution, delivery and performance of this Agreement have been duly authorized by Buyer; and no other consent or action of any kind is required for the execution, delivery and performance of this Agreement by Buyer.

4.2.2 **Encumbrances.** Buyer's execution, delivery and consummation of the Agreement shall not result in any default or violation of any agreement or law by which Buyer is bound.

4.2.3 **Financing.** Buyer has or will have as of the Closing Date, sufficient funds to purchase the Property and carry out its obligations under this Agreement.

4.3 **As-Is Provision.** Buyer acknowledges to Seller that:

- (a) except as otherwise provided in this Agreement, Buyer will conduct its own inspections, investigations, studies and evaluations of the Property prior to Closing, has been given sufficient time prior to entry into this

Agreement to thoroughly conduct such inspections, investigations, studies and evaluations, and will be relying solely on such inspections, investigations, studies and evaluations in deciding whether to purchase the Property;

- (b) other than the warranties in Section 4.1, and Seller indemnities provided in subparagraph 4.4, neither Seller, no real estate broker or agent nor anyone acting or claiming to act for, on behalf of or as a representative of any such party has made any representation, warranty or guaranty concerning the Property or the transactions contemplated by this Agreement on which Buyer is or will be relying in purchasing the Property;
- (c) Buyer will purchase the Property "AS-IS" and "WITH ALL FAULTS" except for the statutory warranties implicit in the Deed (as defined in Section 7.1 below) made as of Closing;
- (d) at Closing, subject only to the warranties in Section 4.1, Buyer will purchase the Property subject to:
 - (1) all latent and patent defects, errors and omissions in the Property, including the building structure, foundation, supports, joists, roof, improvements, mechanical, electrical, plumbing and other systems, the parking areas, the driveways, the water areas and the soil in, on, under and about the Property;
 - (2) any failure of the Property or any part or portion thereof to comply with any governmental requirements or land use, planning, zoning, disabilities or environmental laws, regulations or ordinances
 - (3) any failure of the Property or any part or portion thereof to be useable for any present or expected use
 - (4) any right-of-way, easement, lease, possession, lien, encumbrance, license, reservation, condition or other right; and
 - (5) any hazardous substances, petroleum, hydrocarbon, radon, mold, asbestos, radon, lead paint or other toxic materials or substances of any kind in, on, under or about the Property ("Hazardous Substances"); and
 - (6) the fact that the Property or any portion of the Property may be located on or near an earthquake fault line.
- (e) other than the warranties in Section 4.1, Seller disclaims any representation, warranty or guaranty relating to the Property, oral or



written, past, present or future, express, implied or arising by operation of law, including any warranty of condition, habitability, merchantability, tenantability or fitness for a particular purpose; and

- (f) any information provided or to be provided Buyer with respect to the Property was and will be obtained from a variety of sources and Seller (1) has not made (and will not make) any independent investigation or verification of any such information; and (2) does not make (and will not make) any representations, warranties or guaranties as to the accuracy or completeness of such information.

The provisions of this Section are a material inducement to Seller to enter into this Agreement and Seller would not have entered into this Agreement absent the provisions of this Section.

Seller

Buyer

4.4 **Indemnity.** Seller shall defend, indemnify and hold Buyer harmless from and against any and all loss, cost, expense or liability (including attorney's fees and costs) resulting from any inaccuracy in any of the warranties of Seller under Section 4.1. Buyer shall defend, indemnify and hold Seller harmless from and against any and all loss, cost, expense or liability (including attorney's fees and costs) resulting from any inaccuracy in any of the warranties of Buyer under Section 4.2. In addition, Buyer shall defend, indemnify and hold Seller harmless from and against any and all loss, cost, expense or liability (including attorney's fees and costs) resulting from any act or omission with respect to the Property occurring after Closing. Both the warranties and the indemnities set forth in Sections 4.1, 4.2 and 4.4 shall survive any assignment of this Agreement, and delivery of the Deed at Closing.

4.5 **Required Insurance.** In the event that Buyer performs any significant construction, renovation or demolition work on the Property prior to the Closing Date (the "Work"), prior to commencing any such Work, Buyer shall (a) require any contractor it engages to perform abatement, remediation or removal of Hazardous Substances on, in, under or about the Property to procure the Pollution Liability and Asbestos/Lead-Based Paint Abatement Liability Insurance in accordance with all terms and requirements set forth on Exhibit D attached to this Agreement (including the requirement of naming Seller and its representatives, officials and employees as additional insureds), and (b) provide Seller with certificates of insurance policies and other proof of insurance reasonably required by Seller. Buyer shall cause such contractor(s) to maintain the insurance described in the preceding sentence in full force and effect throughout the period of performance of the Work and for the period afterward specified in Exhibit D and shall provide Seller with proof of annual renewal. If Buyer fails to procure or maintain such required insurance, Seller may purchase such insurance in its own name, in which case Buyer shall be obligated to immediately reimburse Seller for the cost of such insurance,

and if Buyer fails to do so, the unpaid amount shall bear interest at the rate of 18% per annum until paid. The provisions of this paragraph shall survive any assignment of this Agreement, Closing and delivery of the Deed.

SECTION 5. POSSESSION AND INTERIM ACTIONS.

5.1 Continuation of Lease. Buyer is currently in possession of the Property and will remain in possession of the Property pursuant to the terms of the Lease. In the event Buyer exercises the Extension described in Section 7.2, the Lease shall be extended on its current terms through the Closing Date. From and after August 15, 2008 through November 15, 2008, rent shall be held in abeyance and shall not be due. If Buyer has failed to fulfill its obligations under this Agreement by March 1, 2009 (or by September 1, 2009, if Buyer has made the \$35,000 deposit of additional Earnest Money as provided in Section 2.4), the Agreement shall terminate and all rent held in abeyance (less any applicable rent credits) shall be paid in full by October 1, 2009. For as long as this Agreement remains in effect and as long as Buyer is not in default under the terms of the Lease, Seller agrees that it will refrain from exercising any rights it may have to terminate the Lease other than in the event of a material default under the Lease by Buyer.

5.2 Right to Conduct Inspections. In addition to the rights of use and possession Buyer has under the Lease, Buyer shall have the right throughout the term of this Agreement to conduct reasonable investigations of the Property, including but not limited to environmental and geotechnical investigations, structural inspections and surveys.

5.3 Appropriate Inquiries. Throughout the Term, Buyer shall also have the right to approach and interview governmental officials having jurisdiction over the Property and any persons providing services with respect to improving the Property.

5.4 Operation of the Property. Except as required by applicable law, ordinance or regulation, throughout the Term of this Agreement:

5.4.1 No Contracts. Seller shall not enter into any lease or other contract which purports to bind the Property, or any portion thereof, or any successor in ownership of the Property other than with Buyer.

5.4.2 Insurance. Seller shall maintain replacement value casualty insurance on the Property in full force and effect.

5.5 Cooperation with Buyer. Until Closing or earlier termination of this Agreement, Seller, upon Buyer's request, shall confer and cooperate with Buyer in every reasonable respect in connection with Buyer's efforts to obtain approvals and permits necessary or desirable to develop the Property; *provided*, however, that Seller shall not be obligated to spend any money (other than incidental expenditures) or incur any liabilities in connection with such conferring and cooperation.



SECTION 6. TITLE

6.1 **Title Commitment.** "Title Company" shall mean Chicago Title Insurance Company, in Seattle, Washington. Buyer has unconditionally approved of the Commitment for Title Insurance issued by Title Company attached to this Agreement as Exhibit B (the "Title Commitment") and all matters and exceptions disclosed by the Title Commitment.

6.2 **Title Update and Seller Response.** In the event Buyer identifies any objectionable matters in the Title Commitment, as the same may be updated and supplemented throughout the Term of this Agreement, Buyer shall notify Seller of such objection. Seller shall have fifteen (15) business days from such notice to notify Buyer if it will remove the objectionable matter(s) prior to Closing, or if it will not remove the objectionable matter(s). If Seller notifies Buyer that such objectionable matters will be removed, Seller shall be bound to remove the same prior to Closing. All matters and exceptions disclosed in the Title Commitment and not objected to by Buyer and the Covenant, defined in Section 7.1, are referred to in this Agreement as the "Permitted Exceptions". From the date hereof until Closing or termination of this Agreement, Seller shall not enter into any other restriction, easement, covenant or encumbrance regarding the Property.

6.3 **Condition of Title.** At Closing, Seller shall convey title to the Property to Buyer in fee simple, subject only to the Permitted Exceptions. Buyer shall rely solely on its Title Policy (as defined below) and the warranties of Seller in Section 4.1 above as to the condition of title to the Property. At Closing, the Title Company shall issue to Buyer ALTA owner's policy of title insurance (2006 Form) in the amount of the Purchase Price, insuring a fee title in the Property vested in Buyer free and clear of all matters except the Permitted Exceptions, matters placed on the Property by Buyer and those matters excluded from coverage by the standard exception and exclusions contained in the form of title insurance policy required hereby (the "Title Policy"). Buyer, at its own cost, shall furnish any survey (the "Survey") required by the Title Company in order to issue the Title Policy required hereby.

SECTION 7. CLOSING OF SALE

7.1 **Closing.** Subject to Buyer's right to extend described in 7.2 below, this sale shall be closed by and in the offices of the Escrow Agent on or before March 1, 2009 (as may be extended, the "Closing Date"). Title to the Property shall be conveyed by Seller to Buyer in fee simple, subject to all matters, conditions, exclusions and exceptions disclosed by or referred to in the Title Commitment and all liens, encumbrances, agreements, easements, conditions, restrictions and other matters of any kind whatsoever of record and matters which would be disclosed by an accurate survey of the Property. Seller shall convey title in the condition described in the preceding sentence to Buyer by a bargain and sale deed. Buyer shall rely solely on the Title Commitment and the Seller's representations and warranties herein as to the condition

of title to the Property. The closing of this transaction (the "Closing") shall have occurred once the Bargain and Sale Deed in the form attached hereto as Exhibit C ("Deed") and the Restrictive Covenant Agreement in the form attached hereto as Exhibit E ("Covenant") have been executed and recorded, all other documents referred to in Section 7.3 below have been delivered, Payment of the Purchase Price, Interest (if due) and Earnest Money shall have been made and Buyer and Seller have each fulfilled their respective obligations under the terms of this Agreement.

Buyer shall have the right to close this transaction at any time between the date of this Agreement and the Closing Date, subject only to Buyer meeting its obligation to deliver the funds and the documents required by it hereunder. Upon Seller's receipt of written notice from Buyer that it has delivered all documents and funds to the Escrow Agent, and confirmation of the same by the Escrow Agent, Seller shall have fifteen (15) business days to deliver to the Escrow Agent the documents and funds that Seller is obligated to deliver hereunder, and Seller shall permit Closing to occur immediately thereafter.

7.2 Extension. Buyer shall have the option to exercise one six-month extension to this Agreement ("Extension"). Buyer shall exercise the Extension by providing Seller with notice of its intent to do so no later than February 14, 2009 and by depositing the additional Earnest Money, as described in Section 2.2 above. In the event Buyer exercises the Extension, Closing will occur on or before September 1, 2009. If Closing has not occurred by September 1, other than as a result of the fault of Seller, this Agreement shall thereupon terminate and all rights of the parties hereunder shall cease, except that Seller may keep the Earnest Money, as liquidated damages and not as a penalty.

7.3 Deposit of Closing Documents.

7.3.1 By Seller. On or before Closing, Seller shall (a) duly execute and deposit with Escrow Agent the Deed, subject only to the Permitted Exceptions, together with its accompanying Real Estate Excise Tax Affidavit, and a Certificate of Land Use and Local Assessments; (b) execute and deposit with Escrow Agent the Covenant; and (c) deposit with the Escrow Agent the funds necessary to pay Seller's portion of Closing costs described in 7.4 below.

7.3.2 By Buyer. On or before Closing, Buyer shall (a) deposit with Escrow Agent the Purchase Price and the Interest (if due) and the Earnest Money, as described in Section 2, and Buyer's share of all Closing costs; and (b) execute and deposit with Escrow Agent the Covenant.

7.3.3 Other Documents. The parties shall timely execute, acknowledge and deliver such other documents and instruments and shall timely deliver such funds as may be specified in this Agreement or as may be necessary or convenient to close the purchase and sale in accordance with this Agreement.



7.4 **Costs and Prorations.**

7.4.1 **Seller's Costs.** Seller shall pay the cost of standard coverage on the policy of title insurance required hereby, one half the escrow fee, and all its other normal Closing costs associated with Closing, including the real estate excise tax, if any.

7.4.2 **Buyer's Costs.** Buyer shall pay the additional premium for extended coverage and any endorsements requested by Buyer, the cost of any Survey required hereby, the remaining escrow fee and the cost of recording the Deed. All real property taxes and the current year's installment of real estate assessments shall be prorated between Buyer and Seller as of Closing. The real property taxes shall be prorated using the most recent tax information available. To the extent that the amount of any charges, expenses and income referred to in this Section 7.3 are not available at Closing, or in the event of prorations made on the basis of erroneous information or clerical errors, a readjustment of those shall be made within thirty (30) days after Closing or as soon a practical after discovery of any erroneous information or clerical error. Seller shall, on or before Closing, furnish to Buyer and Escrow Agent all information necessary to compute the prorations provided for in this Section 7.3. Buyer shall not be responsible for reporting the transaction to the Internal Revenue Service pursuant to Section 6045 of the Internal Revenue Code.

7.5 **Escrow Instructions.** This Agreement is intended by the parties to set forth the escrow instructions to Escrow Agent. Nonetheless, Seller and Buyer agree to execute and deliver to Escrow Agent any additional instruction requested by Escrow Agent for the purpose of consummating this transaction, provided that any such addition instructions are not inconsistent herewith.

7.6 **Liabilities Not Assumed.** Except as otherwise stated in this Agreement, Seller shall defend, indemnify and hold Buyer harmless from and against any liens, claims, loss or liability (including attorneys' fees and costs) arising out of any leases or other contracts entered into by Seller with respect to the Property prior to Closing. Buyer shall defend, indemnify and hold Seller harmless from and against any liens, claims, loss or liability (including attorneys fees' and costs) arising out any leases or other contracts entered into by Buyer with respect to the Property after the Closing.

7.7 **Termination of Lease.** The Lease and all obligations of Buyer and Seller pursuant to the Lease shall terminate as of Closing.

SECTION 8. CONDITIONS TO CLOSING.

Closing shall occur on satisfaction of all of the conditions in this Section, each of which is an express condition precedent to Closing, which shall continue as conditions until Closing unless waived (or deemed waived) by the benefited party or parties. Unless otherwise stated, each of the conditions is for the benefit of both parties and may only be waived by both parties in writing. Failure to satisfy a condition shall not be

a breach of this Agreement unless it is otherwise a breach of an independent separate obligation of Buyer or Seller under another Section of this Agreement. Upon Closing, any unsatisfied condition is deemed waived by the party or parties benefited by it.

8.1 Deadline for Closing. Closing must occur on or before the Closing Date.

8.2 Due Performance. Due performance of the terms and agreements of this Agreement to be performed by a party on or before the Closing is a condition to Closing by the other party. Such performance shall include execution and delivery in proper form of the documents enumerated in this Agreement and the payment of all sums and the rendering of all other performances and undertakings set forth in this Agreement. This condition shall benefit the party to whom the performance is required to be made, and may only be waived by that party in writing.

8.4 Title Insurance. The Title Company shall issue or unconditionally commit to issue to Buyer the Title Policy.

8.5 Warranties. The warranties of each party under Section 4, subject to exclusion, qualification or exceptions as provided in Section 4, shall be true and correct in all respects on and as of the Closing Date with the same force and effect as if separately made and confirmed on the Closing Date. This condition shall benefit the party to whom the warranty is made and may only be waived by that party in writing.

8.9 Seller's Contingency Satisfied. The contingency set forth in Section 3 shall have been satisfied and fulfilled. This condition is for the benefit of Seller and may only be waived by Seller in writing.

SECTION 9. DEFAULT; REMEDIES

9.1 **Buyer Default and Seller's Remedies.** In the event of Buyer's material breach or default of this Agreement prior to Closing, Seller, as its sole remedy, shall have the right to terminate this Agreement and collect the Earnest Money; provided, however, that Seller first gives Buyer at least thirty (30) days' written notice of the breach or default and opportunity to cure. Seller and Buyer acknowledge that collection of the Earnest Money shall be the sole and exclusive remedy available to the Seller for failure of the Buyer to close, without legal excuse, and upon receipt of such amount by Seller, Buyer and Seller shall be relieved of any further obligations or liability under this Agreement, except those obligations that expressly survive the termination of this Agreement.

9.2 **Seller Default and Buyer's Remedies.** In the event of Seller's breach or default of this Agreement prior to Closing, Buyer shall have be entitled, as the sole and exclusive remedy available, to Seller for such failure, to either (a) terminate this agreement, recover the earnest money and recover as damages from the Seller the actual verified third party costs incurred by Buyer after the date of execution of this Agreement and paid by Buyer with respect to is purchase of the Property, not to exceed One Hundred Thousand Dollars (\$100,000) or (b) obtain specific performance of Seller's



obligation to deed the property to the Buyer as provided in this Agreement. Seller and Buyer agree that the liquidated damages amount clause (a) of the preceding sentence, if applicable, represents a reasonable estimate of the actual damages Buyer would suffer by reason of Seller's default. Seller waives any requirement that Buyer tender the purchase price or any portion of the purchase price as a prerequisite to enforcement of its rights and remedies under this section so long as the Buyer evidences its readiness and capability to perform its obligations under this Agreement.

SECTION 10. POST CLOSING CLAIM LIMITATIONS.

Notwithstanding anything in this Agreement to the contrary, no claim by Purchaser for breach of any warranty, certification, indemnification or agreement of Seller under this Agreement or the deed delivered at Closing or related to any transaction contemplated in this Agreement may be prosecuted by Purchaser following Closing unless Purchaser has on or before the one (1) year anniversary of the Closing Date (a) delivered a written notice to Seller (i) setting forth in reasonable detail the facts under which the claim is based, (ii) containing a specific statement of the warranty which Purchaser claims to have been inaccurate or the agreement which Purchaser claims to have been breached, and (iii) containing a statement of the amount of damages claimed; and (b) commenced suit in a court of appropriate jurisdiction for such breach. In addition, notwithstanding anything in this Agreement to the contrary, following Closing under this Agreement, the maximum aggregate amount which Purchaser may recover against Seller under this Agreement or the deed delivered at Closing, whether for breach of contract, warranty, representation, indemnification or otherwise, shall be One Hundred Thousand and No/100 Dollars (\$100,000.00), and Seller shall have no liability to Purchaser in excess of such aggregate amount. In the event Purchaser proceeds with Closing having knowledge of an inaccuracy in any warranty or breach of this Agreement by Seller, Purchaser shall be deemed to have waived any such inaccuracy or breach by proceeding with Closing, and shall be deemed to waive, and shall not be entitled to assert, a post-Closing claim for rescission, damages or indemnification, whether arising under this Agreement, by statute or by court decisions.

SECTION 11. EXCULPATION FROM LIABILITY.

Neither the Seller's Superintendent nor any Board member, officer, director, agent, employee, affiliate or trustee of Seller shall have any personal liability of any kind or nature, nor shall Seller have the right to receive any judgment or otherwise recover against the assets of the aforesaid, under or arising out of or in any way relating to this Agreement and the transactions contemplated under this Agreement. Seller hereby waives for itself and anyone who may claim by, through or under Buyer any and all rights to sue or recover on account of any such alleged personal liability or to receive any judgment or otherwise recover against the assets of the Superintendent of Seller and any Board member, officer, director, agent, employee, affiliate or trustee of Seller.

SECTION 12. MISCELLANEOUS

12.1 Tax Effect. No party has made or is making any representation to the other concerning any of the tax effects of the transaction provided for in this Agreement. No party shall be liable for or in any way responsible to any other party because of any tax effect resulting from the transactions provided for in this Agreement.

12.2 Notices. All notices, demands, statements and communications required under this Agreement shall be in writing and shall be addressed to a party at the address set forth below, or to such other address as a party may by written notice, given in accordance with this Section, designate. Notices shall be transmitted by personal delivery, express or courier services, electronic means of transmitting written material (so long as an original is transmitted by the United States Postal Service or express or courier service) or United States Postal Service. Notices shall be deemed to be delivered the earlier of: (a) the date received; or (b) three (3) business days after having been deposited in the United States Postal Service, postage prepaid.

To Buyer: Ed Medeiros
Executive Director
Phinney Neighborhood Association
6532 Phinney Avenue N
Seattle, WA 98103
Phone: (206) 783-2244

with a copy to: Susan Boyd
Kantor Taylor McCarthy P.C.
1501 Fourth Avenue, Suite 1610
Seattle, WA 98101-1662
Phone: (206) 625-9898
Fax: (206) 625-9951

To Seller: Seattle School District Number 1
Property Management
c/o Ronald J. English
Deputy General Counsel
MS 32-151, P.O. Box 34165
Seattle, WA 98124-1165
Phone: (206) 252-0110
Fax: (206) 252-0111

with a copy to: Michelle Gail
McNaul Ebel Nawrot & Helgren, PLLC
600 University Street, Suite 2700
Seattle, WA 98101-4151
Phone: (206) 467-1816
Fax: (206) 624-5128



12.3 Entire Agreement. This Agreement contains the entire understanding between the parties and supersedes any prior understanding and agreements between them with respect to the subject matter hereof. There are no other representations, agreements, arrangements or understandings, oral or written, between the parties hereto, relating to the subject matter of this Agreement. No amendment of or supplement to this Agreement shall be valid or effective unless made in writing and executed by the parties hereto.

12.4 Construction. The section headings throughout this Agreement are for convenience and reference only and the words contained in them shall not be held to expand, modify, amplify or aid in the interpretation, construction or meaning of this Agreement. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identification of the persons or persons, firm or firms, corporation or corporations may require. "Person" shall mean an individual, firm association, corporation, trust or any other form of business or legal entity. The locative adverbs "herein", "hereunder", "hereto", "hereby", "hereinafter", etc., whenever the same appear herein, mean and refer to this Agreement in its entirety and not to any special section or subsection hereof. Any reference in this Agreement to "days" means consecutive calendar days. Any reference to the Agreement to "business days" means days in which the recording office of the County in which the Property is located is open. If the last day of any time period or any other specified date occurs on a day when the recording office of the County in which the Property is located is closed, such time period shall be extended to the next day such recording office is open. All parties hereto have been or have had the opportunity to be represented by legal counsel in this transaction. Seller and Buyer acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement (including the exhibits) or any amendments thereto, and the same shall be construed neither for nor against Seller or Buyer, but shall be given a reasonable interpretation in accordance with the plain meaning of its terms and the intent of the parties.

12.5 Real Estate Agents. Neither Buyer nor Seller was represented by a real estate agent in connection with this transaction and neither is liable to pay any real estate commissions. Each party agrees to indemnify and hold the other party harmless from and against any and all liability, costs, damages, causes of action or other proceedings instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying party in the purchase and sale of the Property or in any manner whatsoever in connection with this transaction.

12.6 Attorney's Fees. In the event of litigation between the parties hereto in connection with or arising out of this Agreement, the prevailing party shall recover from the non-prevailing party all actual costs, actual damages and actual expenses, including reasonable attorney's fees and charges, paralegal and clerical fees and charges and other professional or consultants' fees or charges reasonably and necessarily expended

or incurred in connection therewith, as set by the court, including for appeals, which shall be determined and fixed by the Court as part of the judgment.

12.7 Additional Documents. Each party agrees to take such action and to execute, acknowledge, and deliver any and all documents and instruments as may be desired by the other party more effectively to carry out the purpose of this Agreement.

12.8 Binding. Subject to Section 9.13 regarding certain rights of assignment of Buyer's interest hereunder, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

12.9 Risk of Loss. Risk of loss or damage to the Property by condemnation, eminent domain, or similar proceedings (or deed in lieu thereof), or by fire or any other casualty, from the date hereof through the Closing Date shall belong to Seller. In the event of a material loss or damage to the Property by condemnation, eminent domain, or similar proceedings, or by fire or any other casualty from the date of this Agreement but prior to Closing, Seller shall promptly notify Buyer in writing of such loss (other than in the event of casualty, in which case Buyer as lessee shall notify Seller of the casualty as required under the terms of the Lease). Within twenty (20) days of receiving such notice from Seller (or in the event of a casualty, within twenty (20) days of becoming aware of such casualty), Buyer shall provide written notice to Seller of Buyer's decision in its sole discretion, to either (a) proceed with purchase of the Property in accordance with this Agreement, or (b) terminate this Agreement, in which case the Earnest Money shall be refunded to Buyer and the rights and obligations of the parties shall terminate. In the event Buyer fails to provide such notice to Seller, this Agreement shall be deemed null and void, the Earnest Money shall be refunded to Buyer and all further rights and obligation of the parties hereunder shall terminate. If Buyer elects to proceed with the transaction, Seller shall pay to Buyer the proceeds of the casualty insurance required pursuant to the terms hereof or an amount equivalent thereto, if Seller is self-insured.

12.10 Applicable Law. This Agreement shall be construed and interpreted under the laws of the State of Washington.

12.11 Survival. Subject to the limitations set forth herein, all warranties, representations, covenants, obligations and agreements contained in or arising out of this Agreement shall survive Closing.

12.12 Counterparts. This Agreement may be executed in any number of counterparts and all counterparts shall be deemed to constitute a single agreement. The execution and delivery of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts. The signatures to this Agreement may be executed on separate pages and when attached to this agreement shall constitute one complete document.



12.13. **Assignment.** Buyer shall have the right to assign this Agreement to a wholly-controlled affiliate of Buyer so long as (a) Buyer is not in default under this Agreement, (b) Buyer provides Seller with prior notice of such proposed assignment together with documentation evidencing the due formation and valid existence of such affiliate and Buyer's sole control of such affiliate, and (c) such assignee executes a written document in form reasonably acceptable to Seller under which such assignee assumes all obligations of Buyer under this Agreement. No such permitted assignment shall release the party named as Buyer hereunder from any obligations under this Agreement. Except as provided above in this Section, Buyer shall have no right to assign any right, title or interest in this Agreement without Seller's prior written consent.

12.14 Severability. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

11.15 Captions. The captions of this Agreement are inserted solely for convenience of reference only and do not define, describe or limit the scope or intent of this Agreement or any term hereof.

11.16 Time. Time is of the essence under this Agreement. If the time for performance of any provision of this Agreement ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 6:00 p.m. Pacific Standard Time on the next day which is not a Saturday, Sunday or federal, state or legal holiday.

11.15 **Exhibits.** The exhibits listed below are hereby incorporated into this Agreement.

- Exhibit A – Legal Description
- Exhibit B – Title Commitment
- Exhibit C – Form of Statutory Warranty Deed
- Exhibit D – Insurance Requirements
- Exhibit E – Restrictive Use Covenant
- Exhibit F – Rent and Purchase Price Credit Schedule

[Remainder of this page left blank intentionally]

Purchase and Sale Signature Page for Buyer

Buyer:
PHINNEY NEIGHBORHOOD ASSOCIATION,
a Washington nonprofit corporation

By: _____

Name:

Its:

Date: _____, 2008

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of PHINNEY NEIGHBORHOOD ASSOCIATION, a Washington nonprofit corporation, to be the free and voluntary act of such company for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2008.

(print or type name)
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____



EXHIBIT A
TO PURCHASE AND SALE AGREEMENT

LEGAL DESCRIPTION

BEGINNING AT THE NORTHWEST CORNER OF PHINNEY AVENUE ADDITION AS RECORDED I VOL. 20 PLATS, PAGE 85, RECORDS OF KING COUNTY, WASHINGTON. THENCE NORTH 0°02'37" E 316 FEET MORE OR LESS TO THE NORTH LINE OF THE SW ¼ OF THE SW ¼ OF SECTION 6. TOWNSHIP 25N RANGE 4 EAST W. M.; THENCE EAST ALONG THE NORTH LINE OF SAID SUBDIVISION TO THE WEST MARGIN OF DAYTON AVENUE; THENCE SOUTH 0°01'36" E ALONG THE MARGIN OF DAYTON AVENUE TO THE NORTH MARGIN OF THE ALLEY ACCORDING TO THE PLAT OF PHINNEY AVENUE ADDITION; THENCE NORTH 89°51'41" W 349.52 FEET TO THE POINT OF BEGINNING.



EXHIBIT B
TO PURCHASE AND SALE AGREEMENT

TITLE COMMITMENT

EXHIBIT C
TO PURCHASE AND SALE AGREEMENT

Form of Statutory Warranty Deed

After recording return to:

Ronald J. English
Seattle School District
MS 32-151, P.O. Box 34165
Seattle, Washington 98124-1165

Reference Number of Related Document: _____

Grantor: Seattle School District Number 1 of King County, Washington

Grantee: Phinney Neighborhood Association

Abbreviated Legal Description: PTN SW SW SECTION 6-25-04

Assessor's Property Tax Parcel or Account No.: 062504-9063-06;

BARGAIN AND SALE DEED

THE GRANTOR, SEATTLE SCHOOL DISTRICT NUMBER 1 OF KING COUNTY, WASHINGTON, for and in consideration of Ten Dollars (\$10.00), and other valuable consideration in hand paid, conveys to Phinney Neighborhood Association, a Washington nonprofit corporation, the following described real estate, situated in the County of King, State of Washington, fee simple title, subject to all matters, conditions, exclusions and exceptions disclosed by or referred to in the Title Commitment and all liens, encumbrances, agreements, easements, conditions, restrictions and other matters of any kind whatsoever of record and matters which would be disclosed by an accurate survey of the Property:

SEE EXHIBIT A FOR LEGAL DESCRIPTION OF PROPERTY.

(The balance of this page is left blank intentionally)



Grantor's Signature Page for Statutory Warranty Deed

DATED this ____ day of _____, 2008.

SEATTLE SCHOOL DISTRICT NUMBER 1
OF KING COUNTY, WASHINGTON

By: _____
Name: _____
Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of SEATTLE SCHOOL DISTRICT NUMBER 1 OF KING COUNTY, WASHINGTON, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this ____ day of _____, 2008.

(print or type name)
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

EXHIBIT A TO
BARGAIN AND SALE DEED

LEGAL DESCRIPTION

BEGINNING AT THE NORTHWEST CORNER OF PHINNEY AVENUE ADDITION AS RECORDED I VOL. 20 PLATS, PAGE 85, RECORDS OF KING COUNTY, WASHINGTON. THENCE NORTH 0°02'37" E 316 FEET MORE OR LESS TO THE NORTH LINE OF THE SW ¼ OF THE SW ¼ OF SECTION 6. TOWNSHIP 25N RANGE 4 EAST W. M.; THENCE EAST ALONG THE NORTH LINE OF SAID SUBDIVISION TO THE WEST MARGIN OF DAYTON AVENUE; THENCE SOUTH 0°01'36" E ALONG THE MARGIN OF DAYTON AVENUE TO THE NORTH MARGIN OF THE ALLEY ACCORDING TO THE PLAT OF PHINNEY AVENUE ADDITION; THENCE NORTH 89°51'41" W 349.52 FEET TO THE POINT OF BEGINNING.



EXHIBIT D
TO PURCHASE AND SALE AGREEMENT

Insurance Requirements

Contractor, if performing any abatement services, must secure and maintain Pollution Liability and Asbestos/Lead-Based Paint Abatement Liability Insurance to include, but not be limited to, the following requirements:

1. Limits of Liability: \$1,000,000 per occurrence/\$2,000,000 aggregate.

Limits must be project specific, dedicated to work performed on the Property, unless otherwise approved by Seller.

2. Any Pollution Liability and Asbestos/Lead Abatement Liability policy of insurance as respects work to be performed must be written on an occurrence form (except with written consent of Seller) and shall not contain a sunset provision, commutation clause or any other provision which would prohibit the reporting of a claim and the subsequent defense and indemnity that would normally be provided by the policy.

If Seller consents to such a policy on a claims made form, the retroactive date shall be prior to or coincident with the date of commencement of the work. The policy shall state that coverage is claims made, and state the retroactive date. Claims made form coverage shall be maintained by Contractor for a minimum of three (3) years following the termination of the work, and Contractor shall annually provide Seller with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to Seller to assure financial responsibility for liability for services performed.

3. Coverage, with no sunset clause, must apply to asbestos/lead-based abatement operations. Specific lead endorsement evidencing the work must be provided.
4. Pollution Liability coverage as respects asbestos/lead-based paint for all phases of the abatement process must be provided.
5. Transportation coverage for the hauling of ACM/lead-bases paint from the project site to the final disposal location, as evidenced by Contractor or applicable waste hauler. Contractor must comply with all applicable Department of Transportation regulations and all applicable federal, state, municipal and other governmental regulations.
6. Contractual Liability coverage in accordance with ISO Policy Form CG 00 01 11 85, with no modifications except as approved by Seller.

7. Cross Liability/Severability of Interest must be provided for Buyer's claims against Contractor. Any "Insured vs. Insured" type language must be deleted or amended to "Named Insured vs. Named Insured".
8. Seller and its representatives, officials, and employees are to be covered as additional insureds with respect to liability arising out of abatement activities performed by or on behalf of Contractor.
9. Seller and other additional insureds shall be provided a Waiver of Subrogation. To the extent permitted by the policies, Contractor waives such rights of subrogation.
10. The policy shall not exclude asbestos/lead bodily injury to tenants so long as their designated job duties do not require them to be in the regulated asbestos abatement area.
11. If the policy or any endorsement contains a provision which limits or eliminates bodily injury or property damage coverage based on final air fiber clearance levels, the policy shall be modified so that it's consistent with the clearance level (F/CC) and the appropriate analytical testing protocol contained in the project specifications.
12. For any claims related to this project, the Contractor's insurance shall be primary insurance as respects Seller and its agents and employees. Any insurance or self-insurance maintained by Seller shall be excess and noncontributory to Contractor's insurance.
13. The policy shall not contain any provision or definition which would serve to eliminate third party action over claims for employees of Contractor.
14. If the policy contains a warranty stating that coverage is null and void (or words to that effect) if Contractor does not comply with the most stringent regulations governing the work, it shall be modified so that coverage shall be afforded in all cases except for the Contractor's willful or intentional noncompliance with applicable government regulations.

Any failure to comply with reporting or other provisions of the policy, including breach of warranties, shall not affect coverage provided to Seller and its agents and employees.
15. Policy must be modified to include, "The insolvency or bankruptcy of the insured or of the insider's estate will not relieve the insurance company of its obligations under this policy".

Acceptance by Seller of insurance submitted by Contractor does not relieve or decrease in any manner the liability of Contractor for performance of work.



Contractor is responsible for any losses, claims, and costs of any kind which exceed Contractor's limits of liability, or which may be outside the coverage scope of the policies. The limits and coverage requirements may be revised at the option of Seller. The requirements outlined herein shall in no way be construed to limit or eliminate the liability of Contractor which arises from performance of work.

EXHIBIT E
TO PURCHASE AND SALE AGREEMENT

FORM OF RESTRICTIVE COVENANT AGREEMENT

[TO BE ATTACHED]

ATTACHMENT 3
PROJECT BUDGET SUMMARY

Project Name: Allen School Properties
Organization Name: Phinney Neighborhood Association
Date of Budget Prep: August 22, 2008

Stage of Project (check appropriate box):
 Preliminary estimates and negotiations

Uses of Funds	Initial Development Budget	Notes
---------------	----------------------------	-------

Acquisition Costs:

Purchase Price	\$3,050,000	Closing costs per estimated settlement statement from escrow company.
Closing, Title & Recording Costs	\$5,123	
Environmental Analysis	\$2,245	
Appraisal	\$3,755	
Survey	\$8,000	
Legal Counsel	\$45,000	

Necessary Projects to Continue Operations:

Brick Building Slate Roof replacement	\$315,000	Estimated of construction cost needed to operate the property consistent with the organization's plan and to ensure a 15 year building/systems life. Based on current 2008 bids escalated @ 8% annually if done in the future
Brick Building Burner Replacement	\$57,750	
Sewerline Replacement	\$25,000	
Sales Taxes (9%)	\$35,798	
Construction Contingency	\$65,032	

Total Initial Development Cost \$3,612,703

Sources of Funds		Notes
------------------	--	-------

City of Seattle	\$2,540,500	Assumes 1/5th of money allocated for 2008 Donations already received Grant already received Donations already received
State of Washington	\$905,537	
Other Government		
Auction	\$10,000	
Boeing Grant	\$41,000	
Donations	\$115,666	
Total Sources of Funds	\$3,612,703	

Funding Surplus/(Gap) \$0



ORDINANCE _____

AN ORDINANCE relating to the Surplus Allen School/Phinney Neighborhood Center; authorizing the Mayor to enter into a contract with the Phinney Neighborhood Association; and removing a budget proviso that restricted an appropriation in the 2008 Adopted Budget contingent upon execution of such contract.

WHEREAS, in adopting the 2008 Budget, the City Council approved Green Sheet 139-1-A-1, thereby imposing a budget proviso restricting the expenditure of General Funds appropriated to the Finance General budget, Support for the Community Development budget control level for the Phinney Neighborhood Association (PNA); and

WHEREAS, the City Council stated that it anticipated that the proviso would not be lifted until contracts for public benefits were prepared between the PNA and the City of Seattle; and

WHEREAS, City staff have negotiated a contract between the PNA and the Office of Policy and Management which has been agreed to, the terms of which have been incorporated into a Term Sheet attached herein as Attachment 1; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Mayor or his designee is authorized to execute an agreement with the Phinney Neighborhood Association that is consistent with the terms and conditions contained in Attachment 1.

Section 2. The restriction imposed by the following budget proviso shall be removed and no longer be a restriction for any purpose, including for Subsection 1(b) of Ordinance 122560 only at such time as the contract referred to in Section 1 is executed and delivered to the City Clerk :

Department	2008 Green Sheet	Proviso Description	BCL Code
Finance General	139-1-A-1	"None of the money appropriated for 2008 for Finance General Support to Community Development BCL	Support to Community Development (6XD10)



		may be spent for the Phinney Neighborhood Association until authorized by a future ordinance. The Council anticipates that such authority will not be granted until a contract for public benefits is executed.”	
--	--	--	--

Section 3. Any act consistent with the authority of this ordinance taken after the passage of this ordinance and prior to its effective date is hereby ratified and confirmed.

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

Passed by the City Council the ____ day of _____, 2008, and signed by me in open session in authentication of its passage this ____ day of _____, 2008.

President _____ of the City Council

Approved by me this ____ day of _____, 2008.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2008.

City Clerk

(Seal)

Attachment 1 – Term Sheet
Exhibit A to Attachment 1 – Level of Service



ATTACHMENT 1

Agency Service Agreement Term Sheet Between City of Seattle and Phinney Neighborhood Association

Parties: The City of Seattle (the "City") acting through its Director of the Office of Policy and Management (the "Director") and the Phinney Neighborhood Association (the "Agency").

Service Location: Phinney Neighborhood Center (the "Property" or the "Facility"), located at the former John B. Allen Elementary School, 6532 Phinney Avenue N Seattle, Washington 98103.

Contract Amount: \$2,500,000.

Term of the Agreement: From the date of execution until the date 15 years from the date of execution.

General Description of Services: Agency agrees to operate and maintain the Property as a Community Center on a non-discriminatory basis that is open to the public. Exhibit A sets forth the definition of "Community Center" consistent with the 27-year history of the Agency's operations at the Property.

Level of Service: Agency agrees to provide Services at a level similar to or above the current Level of Service provided by the Agency at the Property. The Exhibit A establishes benchmarks that describe the current Level of Service.

Changes in Services or in Level of Service provided: If the Agency wishes to substantially change the type or Level of Service provided at the Property or if the Agency wishes to convert some portion greater than 10% of the area of the Property or the Facility to an alternative use that is inconsistent with the Community Center description, City approval will be required, which approval will not be unreasonably withheld.

Condition of the Property: Agency agrees to maintain the Property in good repair and at a minimum consistent with the Agency's current building maintenance standards for the uses at the Property and in the Facility.

Security: To provide security to the City that the Agency will provide the agreed upon Services for the Term of the Agreement, the Agency will execute a Deed of Trust recorded against the property for the full amount of the Contract and a Restrictive Covenant in which the Agency covenants that the use of the Facility will be restricted to Community Center uses as described.

Termination: The Agreement can be terminated for cause only. If the Agency breaches the Agreement and does not cure the breach after being given a



reasonable cure period, the City has the right to terminate the Contract. Upon termination, damages will be due to the City on a straight line prorata basis ($\$2,500,000/180$ months x the months remaining on the contract).

Payment: The City shall make one initial disbursement and then subsequent disbursements of the contract amount. Roughly \$2,168,000 is to be disbursed into escrow at closing of Agency's purchase of the Property. The balance of \$332,000 will be disbursed based on invoices demonstrating the required scope of work has been completed. A scope of work will be attached to the Agreement. Funds will be disbursed no more frequently than monthly as approved invoices are received by the City for work completed to the satisfaction of the Agency and the City.

Conditions precedent to payment: Funds will be made available by the City to the Agency only after the following conditions are met:

- City is satisfied after reviewing Agency's organizational structure and operating procedures that Agency is prepared to own and manage the facility and provide the Services contemplated in the Agreement (first disbursement);
- City is satisfied after reviewing project plans, building condition reports and surveys and financial plans, that Agency is prepared to undertake and pay for the acquisition and renovation of the building such that the City can be reasonably assured of a 15-year life of the building and its major building systems (first disbursement);
- City and Agency execute an Agency Service Agreement conforming to the terms outlined herein (first disbursement);
- Agency delivery to City a signed Purchase & Sale Agreement for the Property, an estimated settlement statement and escrow instructions prepared by an escrow officer licensed and registered in the State of Washington (first disbursement);
- Agency executes and records a Deed of Trust and Restrictive Covenant against the property both in form and content acceptable to the City and that secures the Agency's obligations to the City consistent with the Agency Services Agreement. The Deed of Trust shall be senior to any other encumbrances (first disbursement);
- Agency provides invoice for renovation work and certification that work covered by the invoice has been completed to Agency's satisfaction (subsequent disbursements).

Reporting and Record Keeping: The Agency agrees to keep the following records for each calendar year during the term of the Agreement:

- All building repairs that exceed \$5,000;
- Any notices of building code violations;
- Square footage of space in the Facility used as a Community Center and square footage of space not used as a Community Center;
- A list of programs offered at the Property including which are youth enrichment, parent support, continuing education and community service,
- List of space provided at no or reduced cost to community groups, and the value of that space provided at no or reduced cost; and



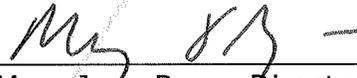
- Total number and total amount of scholarships and/or subsidies provided to low income program participants within the Facility.

The Agency will provide the City with a report summarizing the records described above upon request by the City but no more frequently than annually.

The parties have reviewed and agree to the terms outlined herein and understand that these terms shall provide the basis for an Agency Service Agreement to be prepared by the City for execution by the Agency and the City.



John Smith, Board President
Rhinney Neighborhood Association



Mary Jean Ryan, Director
City of Seattle, Office of Policy and
Management

Date: 5/27/08

Date: 8/27/08



**EXHIBIT A TO ATTACHMENT 1
PHINNEY NEIGHBORHOOD ASSOCIATION - LEVEL OF SERVICE**

The **Phinney Neighborhood Center (PNC)** is a multi-purpose community center, located at the former John B. Allen Elementary School. It is a focus for the Phinney/Greenwood community and provides a wide variety of services to over 200,000 persons/year that come from throughout the Seattle area.

Services located at the PNC vary according to need and interest. They may include but are not limited to:

1. Youth Enrichment and Family Support

Service	Level of Service
Youth Enrichment – Before and After School child care	45 children/day; 15-20% receive scholarships
Youth Enrichment – Summer Program	50-60 Children/day; 15 – 20% receive scholarships
Independent Preschool Childcare	60-80 children/day; reasonable rents keep fees reduced
Preschool Cooperative – early childhood development and parent support	80 – 85 children/week; 3-4% receive scholarships
Classes & workshops for Youth & families	25 - 30% of hourly classroom use at the Center is for youth and family classes

2. Arts and Education

Service	Level of Service
Cultural Activities including theater, dance and music	25 – 30 concerts per year; 45 – 50 dances/year; each serving 100 people/event Subsidized rent enables low cost entry fees
Visual Arts – Gallery	Free monthly shows for 10 months/year Support given to 10 -20 emerging area artists/year
Arts and Crafts Classes	Varies
Continuing Education Classes	60 to 80 classes offered/month Catalog of classes and events published quarterly and distributed free to over 14,000 house holds.



3. Community Service

Service	Level of Service
Community Building Events/Activities designed to bring people together to form connections and develop relationships and/or to raise funds for non-profit agencies	Monthly outreach and fundraising events such as potlucks, Halloween carnival, Dia de los Muertos celebration, crafts festival, home remodeling fair, etc. Numbers of people attending vary from 75 to 4,000.
Public Access Computers and WIFI	Hundreds of people use the free internet connections provided at the center each year.
Administrative Offices for Community Social Services	Types of services administered monthly include: Soup Kitchens; Senior Center; Childcare programs; collaborations with nearby shelters; Neighbors In Action, a volunteer core providing a variety of services to low income community residents.

4. Community Gathering and Meeting Spaces

Use of space at the PNC is open to anyone regardless of race, religion, sexual orientation or special abilities.

Service	Level of Service
Rooms at the PNC are available for lease, hourly rental, in-kind exchanges and free use to qualified community groups	There are over 15,000 hourly rentals/year at the PNC. Free or in-kind use of space provided to community groups ranges in value from \$800 – \$1,000/month.
Spaces are available for educational purposes, events, meetings, seminars and retreats	
Spaces may also be used for other purposes such as public or private schools, religious activities, a polling location, artists studios, farmer's markets, food distribution and exchanges and non-profit agencies providing community service	The PNC is used to support local agriculture by being a drop site for CSA's (community supported agriculture); hosting a weekly farmer's market for 5 months/year; acting as the weekly drop-off site for Food Life Line to area food banks.
Outdoor spaces are also available for similar uses where appropriate.	



STATE OF WASHINGTON – KING COUNTY

--SS.

230158
CITY OF SEATTLE, CLERKS OFFICE

No. TITLE ONLY

Affidavit of Publication

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

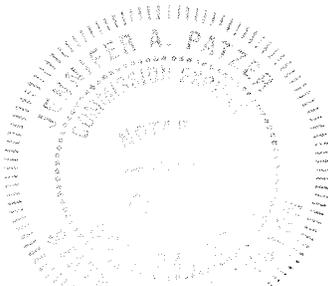
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122813-15,17,19-20,22

was published on

10/14/08

The amount of the fee charged for the foregoing publication is the sum of \$ 98.35, which amount has been paid in full.



Affidavit of Publication

M. J.

Subscribed and sworn to before me on
10/14/08 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on September 29, 2008, and published here by title only, will be mailed, at no cost, on request for two months after this publication. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 122822

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

ORDINANCE NO. 122820

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute a lease agreement with Mahuja International, LLC d/b/a Bainbridge Island Coffee Roasters for space in the 5th Avenue North Garage at Seattle Center, and ratifying and confirming certain acts.

ORDINANCE NO. 122819

AN ORDINANCE relating to City employment; authorizing the Mayor to sign and/or execute a collective bargaining agreement by and between the International Brotherhood of Teamsters, Local 117 Admissions unit to be effective through December 31, 2010; and providing payment therefor.

ORDINANCE NO. 122817

AN ORDINANCE relating to the Surplus Allen School/Phinney Neighborhood Center; authorizing the Mayor to enter into a contract with the Phinney Neighborhood Association; and removing a budget proviso that restricted an appropriation in the 2008 Adopted Budget contingent upon execution of such contract.

ORDINANCE NO. 122815

AN ORDINANCE relating to the High Point Neighborhood Center; lifting a budget proviso and authorizing the Seattle Department of Parks and Recreation to purchase and accept a Restrictive Covenant and Public Access Rights to programs, services and community space at the Neighborhood House's future High Point Neighborhood Center.

ORDINANCE NO. 122814

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the Superintendent to enter into a Lease Agreement with Building 11 LLC for the purpose of renovating Building 11 and offering multiple uses and recreational opportunities in Building 11 at Magnuson Park; and exempting the use of a portion of the Building from the provisions and requirements of Ordinance 118477.

ORDINANCE NO. 122813

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the Superintendent to enter into a Concession Agreement with Arena Sports Magnuson Park LLC to renovate and provide indoor participant sports programs in Building 27 at Warren G. Magnuson Park.

Publication ordered by JUDITH PIPPIN,
City Clerk

Date of publication in the Seattle Daily
Journal of Commerce, October 14, 2008.

10/14(230158)