

#9  
CB 117437

Lise A. Ward  
DPR Greenwood-Phinney Acq ORD  
March 19, 2012  
Version #3

**ORDINANCE \_\_\_\_\_**

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AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the acquisition of real property commonly known as 8102, 8102A, and 8104 Greenwood Avenue North; authorizing acceptance and recording of the deed for open space, park, and recreation purposes; authorizing temporary commercial leasing of the real property; authorizing acquisition by condemnation; increasing appropriations to the Department of Parks and Recreation in the 2012 Adopted Budget; and ratifying and confirming certain prior acts; all by a three-fourths vote of the City Council.

WHEREAS, by Resolution 31055 the City Council created the Parks and Green Spaces Levy Citizen's Advisory Committee to ensure citizen participation in the development of a potential package of parks, open space, boulevards, trails, green infrastructure, and recreation projects, and a proposed set of options to fund the package; and

WHEREAS, the Parks and Green Spaces Levy Citizens' Advisory Committee, after being duly appointed and after spending many hours in open meetings and receiving public testimony and deliberating on the levy, voted by a strong majority to recommend that the City Council place a \$145.5 million six-year levy proposal for park purposes before the voters of Seattle; and

WHEREAS, in response to this recommendation, the City Council passed Ordinance 122749, placing Proposition 2, the 2008 Parks and Green Spaces Levy, before the voters of Seattle; and

WHEREAS, the 2008 Parks and Green Spaces Levy was approved by Seattle voters on November 4, 2008; and

WHEREAS, Ordinance 122749 identifies the Greenwood-Phinney Residential Urban Village for a potential neighborhood park acquisition; and

WHEREAS, the Department of Parks and Recreation considers the Greenwood-Phinney Residential Urban Village as significantly underserved with quality open space, and the area is, therefore, a priority area for additional acquisitions for parks and open space; and

WHEREAS, the City has determined that the purchase of the property at 8102, 8102A, and 8104 Greenwood Avenue North will, after development, provide a new park that meets the criteria to address open space needs established in Seattle's Parks and Recreation 2006 Development Plan, Seattle's 2006 Open Space Gap Report Update, and Seattle's Parks and Recreation 2011 Development Plan, and that it is in the public's best interest to acquire the same for open space, park, and recreation purposes; and



1 WHEREAS, funding for park development may be unavailable for some years and the local  
2 community would prefer that small businesses continue to operate on the site in the  
3 interim; NOW, THEREFORE,

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

5 Section 1. That public convenience and necessity require that the following described  
6 real property, situated in the City of Seattle, County of King, State of Washington, and  
7 commonly known as the property at 8102, 8102A, and 8104 Greenwood Avenue North  
8 (Property), together with all rights, privileges, and other property pertaining thereto, be acquired  
9 for open space, park, and recreation purposes:  
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11 *The west 100 feet of the south 1/2 of Lot 4 in Block 14 of Osner's Second Addition to*  
12 *Seattle as per plat recorded in Volume 12 of Plats, page 3, records of King County.*  
13 *EXCEPT portion thereof condemned in King County Superior Court Cause No. 65489*  
14 *for widening Greenwood Avenue as provided by Ordinance No. 19334 of the City of*  
15 *Seattle.*  
16

17 Section 2. The Superintendent of Parks and Recreation (Superintendent), or his or her  
18 designee, is authorized, on behalf of the City of Seattle, to acquire the Property substantially in  
19 accordance with the terms and conditions of the Purchase and Sale Agreement attached hereto  
20 as Attachment 1 (Agreement). The Superintendent or his designee is authorized to execute such  
21 additional documents as he deems necessary or desirable to accomplish acquisition of the  
22 Property, including, without limitation, such consents, approvals, extensions of time, and minor  
23 amendments of the Agreement as he shall deem appropriate to carry out the intent of this  
24 ordinance. Upon delivery of the statutory warranty deed for the Property, the Superintendent or  
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1 his designee is authorized to accept the deed on behalf of the City of Seattle by attaching to the  
2 deed his written acceptance thereof, and to record the same. The Property shall be accepted for  
3 open space, park, and recreation purposes, and placed under the jurisdiction of the Department  
4 of Parks and Recreation.

5 Section 3. The Superintendent, or his designee, is further authorized, on behalf of the  
6 City of Seattle, to sign leases for the Property substantially in the form of the leases attached to  
7 the Agreement as Exhibit F.  
8

9 Section 4. The Seattle City Attorney is authorized to commence and prosecute  
10 proceedings in the manner provided by law to condemn, take, damage, and appropriate the  
11 Property in fee simple, after just compensation has been made or paid into court for the owners  
12 thereof, in the manner provided by law; and to stipulate for the purposes of minimizing  
13 damages.  
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15 Section 5. To pay for the Property and for necessary related costs and expenses, the  
16 appropriation for the following in the 2012 Adopted Budget and 2012-2017 Capital  
17 Improvement Program is increased from the funds shown, as follows:

Fund	Department	Capital Improvement Program: Program (Number)	Amount
2008 Parks Levy Fund (33860)	Parks and Recreation	2008 Parks Levy – Neighborhood Park Acquisition (K720010)	\$1,934,727

22 Section 6. Any acts consistent with the authority and prior to the effective date of this  
23 ordinance are hereby ratified and confirmed.  
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1 Section 7. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4  
5 Passed by a three-fourths (3/4) vote of all the members of the City Council the \_\_\_\_ day of  
6 \_\_\_\_\_, 2012, and signed by me in open session in authentication of its  
7 passage this \_\_\_\_ day of \_\_\_\_\_, 2012.

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10 \_\_\_\_\_  
11 President \_\_\_\_\_ of the City Council

12 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

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14 \_\_\_\_\_  
15 Michael McGinn, Mayor

16  
17 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

18  
19 \_\_\_\_\_  
20 Monica Martinez Simmons, City Clerk

21 (Seal)

22 Attachment 1: Purchase and Sale Agreement

23 Exhibit A to Agreement: Legal Description

24 Exhibit B to Agreement: Permitted Exceptions

25 Exhibit C to Agreement: Rent Roll

26 Exhibit D to Agreement: Form of Tenant Estoppel Certificate and Agreement

27 Exhibit E to Attachment 1: Exhibit E to Agreement: Existing Leases

28 Exhibit F to Attachment 1: Exhibit F to Agreement: New Leases



## PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT ("Agreement") is entered into by and between THE CITY OF SEATTLE, a Washington municipal corporation ("Buyer"), and THE KIM FAMILY REVOCABLE LIVING TRUST, DATED NOVEMBER 10, 2004, KI SOP KIM AND WAN S. KIM AS TRUSTEES ("Seller"). as of the date this Agreement has been executed by both Buyer and Seller ("Effective Date").

### RECITALS

- A. Buyer made an offer for purchase of the Property (defined in Section 1 below), to which Seller did not respond in writing.
- B. Buyer has the power of eminent domain and is seeking specific authority to condemn the Property.
- C. Buyer and Seller have each determined that it is in their respective best interests to enter into this Agreement for the purpose of stating the terms and conditions under which Seller would agree to sell and convey to Buyer and Buyer would agree to purchase the Property under imminent threat, and in lieu of condemnation.

Intending to be legally bound, for good and valuable consideration, including the mutual covenants and promises of the parties, the adequacy and receipt of which is hereby acknowledged, the parties agree as follows:

1. Property. The "Property" subject to this Agreement consists of all of the following:

(a) That certain real property with a street address of 8102, 8102B, and 8104 Greenwood Avenue North located in Seattle, Washington and more particularly described in Exhibit A attached together with all buildings, structures and other permanent improvements thereon (the "Real Property").

(b) All rights, privileges and easements appurtenant to the Real Property, including without limitation all minerals, oil, gas and other hydrocarbon substances on the land, all development rights, air rights, and any and all appurtenances used in connection with the beneficial use and enjoyment of the Real Property (collectively, the "Appurtenances").

2. Purchase. Seller shall sell and convey the Property to Buyer, and Buyer shall purchase the Property from Seller, on the terms, covenants and conditions set forth in this Agreement.



3. Purchase Price.

3.1. Amount. The purchase price ("Purchase Price") for the Property is One Million Three Hundred Thousand and no/100 Dollars (~~\$1,300,000.00~~).

3.2. Payment. Buyer shall pay Seller the Purchase Price at Closing. *(1,400,000.00) W.S.*

3.3. Deposit. Within ten (10) days of the execution of this Agreement by Buyer and Seller, Buyer will open an escrow account with Pacific Northwest Title Company of Washington, Inc., 215 Columbia Street, Seattle, Washington, 98104 (referred to hereafter as "Escrow Holder") and shall deliver to Escrow Holder a deposit of Five Thousand and NO/100 Dollars (\$5,000.00) (the "Deposit") together with a copy of the fully executed Agreement. Escrow Holder shall place the Deposit in an interest-bearing account for the benefit of the Buyer. Escrow Holder shall apply or disburse the Deposit as provided in this Agreement. At Closing, Escrow Holder shall apply the Deposit together with interest, if any, to the Purchase Price.

4. Title.

4.1. Condition of Title. Title to the Property shall, at the option of Buyer, be insurable by an ALTA extended coverage owner's policy of title insurance or a standard owner's policy of title insurance, in the amount of the Purchase Price, subject only to the Permitted Exceptions (defined in Subsection 4.3 below). Seller shall satisfy all requirements of the Title Company (defined in Subsection 4.2 below) in connection with issuance of the title policy (the "Title Policy") in accordance with the Commitment (defined in Subsection 4.2 below).

4.2. Title Insurance Commitment. Buyer has obtained a current title insurance commitment issued by First American Title Company dba Pacific Northwest Title Company ("Title Company"), 215 Columbia Street, Seattle, WA 98104, No. 1106648, dated January 21, 2010, updated with Supplemental #1 dated February 17, 2010, Supplemental #2 dated July 26, 2010, Supplemental #3 dated October 18, 2010, and Supplemental #4 dated June 1, 2011. Updates to the commitment shall commit Title Company to insure title in Buyer in the amount of the Purchase Price subject only to the Permitted Exceptions (defined Subsection 4.3 below) and shall commit the Title Company to issue such policy endorsements as required by Buyer, and, at the election of Buyer, shall commit Title Company to issuance of a 2006 ALTA Owner's Extended Coverage Policy of title insurance. If required by the Title Company to issue an extended coverage owner's ALTA title insurance policy, Buyer shall obtain a survey and title updates for an extended policy at its own expense. The commitment together with any subsequent additional updates acceptable to Buyer, are referred to collectively as the "Commitment".

4.3. Permitted Exceptions. Those exceptions to title listed on Exhibit B attached hereto together with any additional exceptions to title approved in writing by Buyer constitute permitted exceptions ("Permitted Exceptions"). Seller, at its sole cost and expense, shall remove all exceptions other than Permitted Exceptions.



5. Conditions Precedent.

5.1. Conditions Precedent to Buyer's Obligation to Purchase. Buyer's obligations with respect to purchase of the Property and the Closing are subject to fulfillment, or waiver thereof by Buyer in writing, of all conditions contained within this Agreement ("Buyer's Conditions Precedent"), including the following, not later than the Closing Date (unless an earlier date is specified:

(a) Title Policy. The Title Company shall be prepared to issue the Title Policy as described in Section 4.

(b) Moratorium. No reassessment, reclassification, rezoning or other change in judicial or administrative decision or proceedings (including amendments and modifications of any of the foregoing) pending or proposed to be imposed by any governmental or quasi-governmental authority or any public or private utility having jurisdiction over the Property shall have occurred.

(c) Zoning: Survey. There are no existing violations of zoning ordinances or other laws, ordinances or restrictions applicable to the Property; there are no encroachments upon the Property; and there are no other matters disclosed by survey that are unacceptable to Buyer, in Buyer's sole discretion.

(d) Noncompliance - Violation. Existing uses of the Property are in full compliance with all applicable zoning laws (and applicable variances) and any other local, municipal, regional, state or federal requirements and the improvements on the Property comply with all applicable building, safety, health, zoning, environmental, subdivision and other laws, ordinances and regulations.

(e) No Actions or Proceedings. There is no action, proceeding or investigation, pending or threatened, with respect to the title, ownership, maintenance, use or operation of the Property.

(f) No Environmental Violations. The Property is not in violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions on, under, above or about the Property, including but not limited to soil and groundwater conditions.

(g) Representations, Warranties and Covenants of Seller. Seller shall have performed each and every agreement to be performed by Seller under this Agreement, and Seller's representations and warranties in this Agreement shall be true and correct as of Closing.

(h) No Adverse Changes. As of Closing, there shall have been no adverse change in the physical condition of the Property from the date of this Agreement.



(i) Seller's Deliveries. Seller shall have delivered each of the items described (and no later than the delivery time specified) in Subsection 6.1 to Buyer and in Subsection 8.1 to Escrow Holder.

(j) Investigation. Buyer shall have notified Seller that the condition stated in Subsection 6.3 has been satisfied or waived within the time period required therein.

(k) Ordinance. On or before January 31, 2012, an ordinance shall be in effect authorizing the transaction contemplated by this Agreement and appropriating funds to complete this transaction.

(l) No Seller Bankruptcy. If at any time prior to Closing, (i) there shall be filed against or by Seller a petition in bankruptcy or insolvency or a petition seeking to effect any plan or other arrangement with creditors or seeking the appointment of a receiver and the same is not discharged or dismissed before Closing; (ii) a receiver or liquidator is appointed for all or substantially all of Seller's property; (iii) Seller makes an assignment for the benefit of creditors or takes any other similar action for the benefit or protection of creditors, then Buyer shall have the right in its sole and absolute discretion and in addition to all other remedies available to Buyer pursuant to this Agreement or at law or in equity to cancel and terminate this Agreement after which the Deposit shall be returned to Buyer and neither party shall have any further rights or obligations under this Agreement.

(m) Tenant Certificates. On or before November 30, 2011, Seller shall have delivered to Buyer estoppel certificates signed by the authorized representative(s) of each tenant listed in the Rent Roll attached hereto as Exhibit C (the "Tenants"). The certificates shall contain all of the information and warranties sought in the form attached hereto as Exhibit D ("Tenant Certificates").

(n) Termination of Leases. Effective on the Date of Closing, Seller shall have terminated the existing leases, copies of which are attached hereto as Exhibit E ("Existing Leases").

(o) New Leases. Effective on the Date of Closing, Seller shall have signed and acknowledged, and shall have caused Lorenzo and Reiko Rangel dba Aloha Ramen Noodle House and Il Jun Chong and \_\_\_\_\_ dba Manna Teriyaki to sign and acknowledge, new leases in the forms attached hereto as Exhibit F ("New Leases").

5.2. Benefit of Buyer. The Buyer's Conditions Precedent are solely for the benefit of Buyer and may be waived only in writing by Buyer. Buyer shall at all times have the right to waive any condition. The waiver by Buyer of any condition in any specific circumstances shall not be a waiver of such condition with respect to any other circumstances or a waiver of any other condition and shall not relieve Seller of any liability or obligation with respect to any representation, warranty, covenant or agreement of Seller, unless the waiver expressly so provides.



5.3. Termination. If any Buyer's Condition Precedent is not satisfied or waived prior to Closing (or such earlier date as provided elsewhere in this Agreement), then Buyer, in Buyer's sole discretion, shall have the right to terminate this Agreement by written notice to Seller and Escrow Holder, and the parties shall have no further obligations under this Agreement, except that Buyer shall be entitled to return of the Deposit together with interest, if any, and Seller and Buyer shall be entitled to return of any documents deposited with Escrow Holder.

6. Investigation of the Property.

6.1. Seller's Initial Deliveries. Within seven (7) days after the Effective Date, Seller shall, at its sole expense, deliver to Buyer (a) signed copies of all leases other than the Existing Leases, if any, contracts, and accounting records affecting the Property and other documents, records and materials concerning the operation or physical condition of the Property, including, without limitation, all surveys, maps, plans, soils reports and environmental site assessments; and (b) a completed disclosure statement for commercial real estate in the form required by Section 64.06.013 of the Revised Code of Washington.

6.2. Entry. Without limiting any other rights of Buyer under this Agreement, as of the Effective Date, Buyer and Buyer's agents and employees shall have the right to enter the Property to conduct soils, engineering, environmental and other tests, inspections, surveys and investigations at the Property ("Investigations") at Buyer's sole expense. Seller agrees to cooperate and to cause the Tenants to cooperate with any Investigations made by or at Buyer's direction. The exercise by Buyer of any of the preceding rights or any other act of Buyer shall not negate any representation, warranty or covenant of Seller, or modify any of Buyer's rights or Seller's obligations in the event of any breach by Seller of any of its representations, warranties or covenants under this Agreement. To the extent permitted by applicable law, Buyer shall indemnify and hold Seller harmless from any and all damages, expense, liens or claims (including attorneys' fees) arising from Buyer's negligence in exercise of its rights under this Subsection 6.2 or failure to pay third parties, and the provisions of this indemnity shall survive termination of this Agreement.

6.3. Period for Investigations. Closing of this transaction is conditioned on Buyer's satisfaction with the Property, the suitability of the Property for Buyer's intended uses and the feasibility of this transaction in Buyer's sole and absolute discretion. Buyer shall have until November 30, 2011 to conduct its Investigations, and to review the items delivered by Seller pursuant to Subsection 6.1 above (the "Contingency Period"). If Buyer fails to notify Seller and the Escrow Holder in writing that this condition is satisfied or waived prior to 5:00 p.m. Pacific Time on the final day of the Contingency Period, then this Agreement shall be deemed terminated, and both Seller and Buyer shall be released and discharged from all further obligations under this Agreement. The Deposit, plus interest, shall be returned to Buyer and, except as provided in Subsection 6.2, neither party shall be subject to a claim by the other for damages of any kind with respect to this Agreement or Buyer's attempt to purchase the Property. The Contingency Period shall be extended as necessary for Seller's Work (described in



Subsection 6.4 below) and as necessary for completion of a Level 2 environmental site assessment if Buyer determines that results or recommendations of a Level 1 environmental assessment warrant soil testing.

6.4 Seller's Work. All of the following constitutes Seller's Work: In the event that the Investigations disclose the presence of one or more underground storage tanks, not in use, on the Property, Seller shall, at Seller's sole cost and expense, cause the underground storage tank(s) to be removed and properly disposed of by a date mutually acceptable to the parties prior to Closing ("Extended Contingency Period"). Included within the removal work scope shall be a requirement that the contractor determine whether there is evidence that the underground storage tank(s) are leaking or have leaked product into surrounding soil or groundwater. The removal and disposal shall be completed in compliance with applicable law and regulation by a contractor licensed to conduct underground storage tank decommissioning and removal. If there is evidence that the underground storage tank(s) are leaking or have leaked product into surrounding soil or groundwater, or if there is other evidence of soil or groundwater contamination, then Buyer and Seller shall further extend the Extended Contingency Period if necessary and prior to the expiration of such Extended Contingency Period, Seller shall cause its licensed contractor (a) to remove and dispose of all contaminated soil, (b) to undertake all necessary environmental remediation of soil and groundwater in compliance with applicable law and regulation, (c) to provide to Buyer copies of its license and qualifications, permit for tank removal, its certification of tank removal, if applicable, and its certification of soil and groundwater remediation, if applicable, all in compliance with applicable law and regulation, and (d) to restore the Property to its original condition with appropriate fill type, compaction, grading, and ground cover or paving, as applicable.

7. Seller's Obligations. Before Closing Seller shall, at its sole expense:

7.1. Promptly notify Buyer upon learning of any fact or event that would make any of the representations or warranties of Seller contained in this Agreement or any Buyer's Conditions Precedent untrue or misleading in any material respect or that would cause Seller to be in violation of any of its covenants or other obligations hereunder.

7.2. Notify Buyer promptly upon receiving notice of a claim or pending litigation affecting the Property, or notice of any event, transaction, or occurrence before Closing that would materially adversely affect the Property or any part thereof.

7.3. Not convey, mortgage, grant a deed of trust, or contract to do the foregoing or otherwise allow or consent to convey, abandon, relinquish, cloud or encumber title to the Property or any interest therein or part thereof without Buyer's consent.

7.4. Maintain the Property in good order, condition and repair, and otherwise operate the Property and maintain its business records in the same manner as before the making of this Agreement, the same as though Seller were retaining the Property.



7.5. Maintain all casualty, liability and hazard insurance currently in force with respect to the Property through Closing without diminution in coverage.

7.6. Remedy any violations of law or municipal ordinances or regulations of any federal, state, local or other governmental departments.

7.7. Take no action that will adversely affect title to the Property.

7.8. Not renew, extend, amend, or modify any Existing Lease, nor enter into any new lease affecting the Property without Buyer's prior written consent.

8. Deliveries to Escrow Holder.

8.1. By Seller. Seller shall deliver or cause to be delivered to Escrow Holder on or prior to the Closing Date the following items, the delivery of each of which shall be a condition to the performance by Buyer of its obligations under this Agreement:

(a) Deed. A statutory warranty deed, in form and substance satisfactory to Buyer and its counsel, duly executed and acknowledged by Seller (the "Deed"), conveying to Buyer indefeasible good and marketable fee simple title to the Property, free and clear of all liens, encumbrances, restrictions and easements, except only the Permitted Exceptions.

(b) FIRPTA Affidavit. A certificate in form and substance acceptable to Buyer and its counsel, duly executed by Seller, evidencing that Seller is exempt from the withholding requirements of Section 1445 of the Internal Revenue Code.

(c) ALTA Affidavits. Any affidavits, certifications or instruments, including any lien affidavits or mechanic's lien indemnifications, duly executed and acknowledged by Seller, as reasonably may be required by the Title Company in order to issue the Title Policy.

(d) Title Insurance Policy. The Title Insurance Policy in conformance with Section 4.

(e) Closing Certificates. A certificate of Seller dated as of the Closing Date certifying that all of Seller's representations and warranties remain true as of the Closing Date, or if not, specifying the respect in which any representation or warranty is no longer true.

(f) Certificates of Authority. Such certificates as are necessary or required by Buyer or the Title Company to evidence the authority of Seller and its signatories to execute the instruments to be executed by Seller in connection with this transaction, and evidence that the execution of such instruments is the official act and deed of Seller.



(g) Excise Tax Affidavit. A real estate excise tax affidavit signed by Seller.

(h) Termination of Existing Leases. Evidence, satisfactory to Buyer and the Title Company, of termination of the Existing Leases.

(i) New Leases. The New Leases, executed and acknowledged by the lessees thereunder.

8.2. Buyer. Buyer shall deliver or cause to be delivered to Escrow Holder on or before the Closing Date cash by federal funds, wire transfer or cashier's check in the amount necessary to pay the balance of the Purchase Price and Buyer's share of closing costs and prorations.

9. Close of Escrow.

9.1. Time. Closing shall occur in the office of Escrow Holder on a date mutually agreeable to Buyer and Seller after Buyer's Conditions Precedent have been satisfied or waived, but in any event no later than January 31, 2012. As used in this Agreement, "Closing," "Closing Date" or "Date of Closing" means the date on which all appropriate documents are recorded and proceeds of sale are available for disbursement to Seller in accordance with this Agreement. Funds held in reserve accounts pursuant to escrow instructions shall be deemed, for purposes of the definition of "Closing," "Closing Date" and "Date of Closing," as available for disbursement to Seller.

9.2. Closing Costs and Prorations.

(a) Closing Costs. Buyer and Seller shall each pay their own attorneys' fees. Buyer shall pay the cost of recording the Deed, escrow fees, the title insurance premium charged by the Title Company for Buyer's title policy and the endorsements required by Buyer, and the cost of any survey required by the Title Company (if any). Seller's monetary liens on the Property, if not previously discharged, shall be discharged in full out of the Purchase Price at Closing. Seller shall pay real estate excise tax, if any is due.

(b) Prorations. Seller shall be responsible for paying real property taxes, general assessments, surface water management fees and other fees (if any) payable to governmental entities, utilities and operating expenses relating to the Property through the Closing Date. If Seller is entitled to a reimbursement for overpayment of real property taxes, it shall be Seller's responsibility to seek such reimbursement from the appropriate taxing authority outside of Closing. Seller shall provide evidence satisfactory to Buyer that accounts for utility services to the Property, including but not limited to electricity, heating oil (if applicable), natural gas (if applicable), solid waste, water, sewer, telephone, internet service, and cable, are current and there are no delinquent charges owing. Any special assessments against the Property in existence as of the Closing Date shall be paid in full by Seller. All expenses of the Property, including but not limited to, real property taxes, surface water management fees and other fees (if any) payable to governmental entities, rents, utility charges, amounts payable under contracts that



Buyer elects to accept or assume, annual permits and other expenses normal to ownership, use, operation and maintenance of the Property shall be prorated as of 11:59 p.m. on the Closing Date.

(c) Rents and Security Deposits. Prepaid rents shall be credited to Buyer. Installments of rent will be prorated based on collections as of 11:59 p.m. on the Closing Date. Any rents collected by Buyer after the Closing Date shall be applied to rentals accruing after the Closing Date and then to any rents due for any period prior to the Closing Date. All security deposits under the Existing Leases shall be transferred or credited to Buyer at Closing.

9.3. Procedure. Escrow Holder shall close escrow as follows:

(a) Obtain the release of the Property from any liens described in the Commitment except the Permitted Exceptions;

(b) Confirm with Buyer satisfactory evidence of termination of Existing Leases and delivery of all documents by Seller;

(c) Confirm execution and acknowledgement of the New Leases;

(d) Pay applicable real estate transfer excise taxes and record the Deed;

(e) Complete the prorations and credits;

(d) Issue and deliver the Title Policy to Buyer;

(e) Deliver any other documents deposited by Seller with Escrow Holder to Buyer;

(f) Deliver the Purchase Price less Seller's closing costs and prorations and Buyer credits to Seller; and

(g) Forward to Buyer and Seller, in duplicate, a separate accounting of all funds received and disbursed for each party and copies of all executed and recorded or filed documents deposited with Escrow Holder, with such recording and filing date endorsed thereon.

9.4. Incorporation of Escrow Instructions. This Agreement shall serve as escrow instructions, and an executed copy of this Agreement shall be deposited by Buyer with Escrow Holder following its execution. The parties may execute additional escrow instructions provided that such additional escrow instructions shall not change the terms of this Agreement.

9.5. Possession. Possession of the Property shall be delivered to Buyer upon Closing, subject to the New Leases.



9.6. Deliveries Outside of Escrow. On the Closing Date Seller shall deliver to Buyer outside of escrow all original books and records of account, contracts, leases and leasing correspondence, receipts for deposits, unpaid bills and other papers pertaining to the Property, architectural and engineering plans, drawings and specifications for the improvements to the Property, all "As-Built" plans and specifications, original operating permits and certificates relating to use, occupancy or operation of the Property, all advertising materials, booklets, keys and other items, if any, used in operation of the Property.

10. Brokerage Commission. Seller warrants to Buyer and Buyer warrants to Seller that each party's sole contact with the other and with the Property regarding this transaction has been directly with the other party and has not involved any broker or finder. Seller and Buyer further warrant to each other that no broker or finder can properly claim a right to a commission or finder's fee based upon contacts between the claimant and that party with respect to the other party or the Property. To the extent permitted by applicable law, each party shall indemnify, defend and hold the other party harmless from and against any loss, cost or expense, including, but not limited to, attorneys' fees and court costs, resulting from any claim for a fee or commission by any broker or finder in connection with the Property and this Agreement resulting from the indemnifying party's actions.

11. Casualty or Condemnation.

11.1. If there is a condemnation (by an entity other than Buyer) of all or part of the Property initiated before Closing, Seller shall promptly notify Buyer and Buyer shall have the option for ten (10) days following the date the notice is received (a) to proceed with the Closing, in which event all condemnation proceeds already received by Seller by the Closing shall be paid to Buyer and the right to receive such proceeds not yet received by Seller shall be assigned to Buyer at the Closing, or (b) to terminate this Agreement. Unless this Agreement is terminated, Seller shall take no action with respect to any condemnation proceeding without the prior written consent of Buyer.

11.2. Before Closing, the entire risk of loss or damage by casualty to the Property however caused shall be borne and assumed by Seller. If any casualty costing Ten Thousand Dollars (\$10,000) or more to repair has occurred to the Property before Closing, Buyer at its election may terminate this Agreement or proceed to close in which case Seller shall assign to Buyer all insurance proceeds attributable to the casualty. If there is a casualty to the Property costing less than Ten Thousand Dollars (\$10,000) to repair, there will be no termination of this Agreement, such damage shall be repaired by the Seller, and if not so repaired before Closing, then the remaining cost of repair shall be withheld from the Purchase Price and paid over to Seller upon Seller's completion of the repairs to Buyer's reasonable satisfaction.



12. Representations, Warranties and Covenants.

12.1. Seller's Representations, Warranties and Covenants. In addition to the representations, warranties and covenants contained elsewhere in this Agreement, Seller as of the date of this Agreement and as of the Closing Date makes the following representations, warranties and covenants:

(a) Title. Seller is the sole owner of the Property. At Closing, Buyer will acquire the entire fee simple estate and right, title and interest in and to the Property, free and clear of all recorded or unrecorded liens, encumbrances, covenants, restrictions, reservations, easements, options, tenancies, leases, encroachments, claims or other matters affecting title or possession of the Property, subject only to the Permitted Exceptions and the New Leases.

(b) Agreements to Transfer or Encumber. Seller has not committed nor obligated itself in any manner whatsoever to sell or encumber the Property or any interest therein to any party other than Buyer or to lease all or any portion of the Property except as provided in the Rent Roll attached as Exhibit C.

(c) Compliance with Law. To the best of Seller's knowledge the Property complies in all material respects (both as to condition and use) with all applicable statutes, ordinances, codes, rules and regulations of any governmental authority having jurisdiction over the Property (including those related to zoning, building, subdivision, and engineering), including all conditions contained in any certificate of occupancy covering any of the Real Property. Seller has obtained all required permits or authorizations for such occupancy. Seller has no knowledge of any facts that might give rise to any violation of the foregoing matters.

(d) Bankruptcy, Etc. No bankruptcy, insolvency, rearrangement or similar action involving Seller or the Property, whether voluntary or involuntary, is pending, threatened, by a third party, or contemplated by Seller.

(e) Litigation. There is no pending or to Seller's best knowledge threatened judicial, municipal or administrative proceedings with respect to Seller, this transaction or in any manner affecting the Property or any portion thereof or in which Seller is or will be a party by reason of Seller's ownership of the Property or any portion thereof.

(f) Notices. Seller has not received any notices from any insurance companies, governmental agencies or from any other parties with respect to any violations or other matters concerning the Property.

(g) Taxes and Assessments. Other than amounts disclosed by the Commitment, to the best of Seller's knowledge, no other property taxes have been or will be assessed against the Property for the current tax year, and there are no general or special assessments or charges that have been levied, assessed or imposed on or against the Property.



(h) Tax Returns. Seller has filed all local, state and federal tax forms that are required to be filed by Seller, has paid all taxes due and payable by Seller to date and will pay all such taxes that become due and payable by Seller prior to the Closing.

(i) Underground Storage Tanks. To the best of Seller's knowledge, there are no cisterns, wells, subterranean storage or underground storage tanks on the Property and underground storage tanks have not been removed from the Property.

(j) Violation of Property Restrictions. To the best of Seller's knowledge, the Property and the current use, occupation and condition thereof do not violate any applicable deed restrictions or other covenants, restrictions or agreements (including, without limitation, any of the Permitted Exceptions), site plan approvals, zoning or urban redevelopment plans applicable to the Property.

(k) Subdivision. The conveyance of the Property will not constitute a violation of any subdivision ordinance.

(l) Tax Valuation/Assessment. Seller has no knowledge and has received no notice of any proceedings pending for the correction of the assessed valuation of Real Property or any other pending or threatened special assessments affecting the Real Property.

(m) Authority. Seller has all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Seller and constitute the Seller's legal, valid and binding obligation enforceable against Seller in accordance with its terms. The consummation by Seller of the sale of the Property is not in violation of or in conflict with nor does it constitute a default under any of the terms of any agreement or instrument to which Seller is or may be bound, or of any provision of any applicable law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

(n) No Omissions. All representations and warranties made by Seller in this Agreement, and all information contained in any certificate furnished by Seller to Buyer in connection with this transaction, are free from any untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained herein or therein not misleading. The copies of any documents furnished to Buyer in connection with this transaction are true and complete copies of the documents they purport to be and to the best of Seller's knowledge contain no untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained therein not misleading.

(o) Leases, Service Contracts or Other Contracts. At the date of this Agreement, no leases, service contracts, or other contracts are in place regarding or related to the Property except the Existing Leases. As of the Date of Closing, no leases, service contracts, or other contracts will be in place regarding or related to the Property except the New Leases.

(p) Mechanic's Liens. No labor, material or services have been furnished in, on or about the Property or any part thereof as a result of which any mechanics', laborer's or materialmen's liens or claims might arise.

(q) Assumption of Liabilities. Buyer, by virtue of the purchase of the Property, will not be required to satisfy any obligation of Seller arising prior to the Closing Date. Other than such obligations so expressly assumed by Buyer or any liens or other obligations with respect to the Property that result from any action or activities by or on behalf of Buyer after the Closing Date, Seller, after the Date of Closing, will pay and discharge any and all liabilities of each and every kind arising out of or by virtue of the possession, ownership or use of the Property prior to the Closing Date, and shall indemnify, defend and hold Buyer harmless therefrom.

(r) Provide Further Information. From the date of this Agreement to the Closing Date, Seller will notify Buyer of each event of which Seller becomes aware affecting the Property or any part thereof immediately upon learning of the occurrence of such event.

12.2. Effect of Buyer's Inspections. The effect of the representations and warranties made by Seller in this Agreement shall not be diminished or deemed to be waived by any inspections, tests or investigations made by Buyer or its agents.

13. Environmental Compliance. In addition to and without limiting any other representations, warranties, covenants and agreements in this Agreement, Seller represents, warrants, covenants and agrees:

13.1. Hazardous Substances. Seller has not used, generated, manufactured, produced, stored, released, discharged or disposed of on, under, above or about the Property (or off-site of the Property that might affect the Property) or transported to or from the Property, any Hazardous Substance or allowed any other person or entity to do so. Seller has no knowledge nor has Seller observed any questionable practice or conduct indicating that any Hazardous Substance has been used, generated, manufactured, produced, stored, released, discharged or disposed of on, under or above Property (or off-site of the Property that might affect the Property) or transported to or from the Property by any entity, firm or person, or from any source whatsoever.

13.2. Pre-closing Covenant. Seller will not use, generate, manufacture, produce, store, release, discharge or dispose of on, under, above or about the Property (or off-site of the Property that might affect the Property), or transport to or from the Property, any Hazardous Substance or authorize any other person or entity to do so, prior to the Closing.



13.3. Environmental Indemnity. Seller shall protect, indemnify, hold harmless and defend Buyer and its directors, officers, contractors, employees, agents, parents, subsidiaries, successors and assigns from and against any and all loss, damage, cost, expense or liability (including attorneys' fees and costs) directly or indirectly arising out of or attributable to a breach of any representation, warranty, covenant or agreement contained in this Section 13 including, without limitation, (a) all consequential damages, and (b) the costs of any required or necessary repairs, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans. This indemnity does not apply to actions of Buyer, its agents or independent contractors.

13.4. Definitions. For the purpose of this Section 13, the following terms shall be defined as provided below unless the context clearly requires a different meaning:

(a) "Environmental or Safety Law" means the Federal Water Pollution Control Act, the Clean Air Act, the Resource Conservation and Recovery Act ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Superfund Amendment and Reauthorization Act, the Toxic Substances Control Act ("TSCA"), the Occupational Safety and Health Act, the Hazardous Materials Transportation Act, the Hazardous Materials Transportation Uniform Safety Act, the Oil Pollution Act of 1990, the Washington Water Pollution Control Act, the Clean Air Washington Act, the Washington Hazardous Waste Management Act ("HWMA"), the Washington Model Toxics Control Act ("MTCA"), the Washington Industrial Safety and Health Act, the Washington Worker and Community Right to Know Act, and the Washington Oil and Hazardous Substance Spill Prevention and Response Act, together with all regulations promulgated under any such authority, and any and all other federal, state, regional, local or international statutes, regulations, rules, ordinances, orders, court or regulatory agency directives, permits, licenses, governmental authorizations and common law causes of action that apply to (1) any hazardous substance or material regulated or restricted under CERCLA, RCRA, TSCA, MTCA, or the HWMA; (2) any other pollutant, contaminant, or waste; (3) the health or safety of persons; or (4) the protection of the environment or land use. "Environmental or Safety Law" includes past and future amendments and supplements.

(b) "Hazardous Substances" means any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any Environmental or Safety Law.

14. Survival. The covenants, agreements, representations and warranties made in this Agreement shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof.

15. Entire Agreement. This Agreement contains the entire integrated agreement of the parties, including all of the covenants and conditions between the parties with respect to the subject matter of this Agreement, and supersedes all prior correspondence, agreements and understandings, both verbal and written. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by Seller and Buyer. The parties do not intend to confer any benefit under this Agreement to any person, firm or corporation other than the parties.

16. Default; Remedies; Specific Performance. This Agreement pertains to the conveyance of real property, the unique nature of which is hereby acknowledged by the parties. Consequently, if Seller breaches or defaults under this Agreement or any of the representations, warranties, terms, covenants, conditions or provisions hereof, Buyer shall have, in addition to a claim for damages for such breach or default, and in addition and without prejudice to any other right or remedy available under this Agreement or at law or in equity, the right (a) to specific performance of this Agreement; or (b) to terminate this Agreement upon written notice without liability to Seller.

17. Notices. All written notices required to be given pursuant to the terms hereof shall be either delivered personally or deposited in the United States mail, certified mail, return receipt requested, postage prepaid and addressed to the addresses listed below with copies to the parties listed after such address (if any):

SELLER:

Ki Sop Kim and Wan S. Kim  
2340 130<sup>th</sup> Avenue NE Suite D110  
Bellevue, WA 98005-1763  
Facsimile: \_\_\_\_\_ Telephone: \_\_\_\_\_

BUYER:

Seattle Department of Parks and Recreation  
800 Maynard Avenue South, 3<sup>rd</sup> Flr.  
Seattle, WA 98134  
Facsimile: (206) 233-7038 Telephone: (206) 733-9106  
Attn: Lise Ward

The foregoing addresses may be changed by written notice to the other party as provided herein. Mailed notice properly given shall be deemed received two (2) days after deposit in the mail. Facsimile transmission of any signed original document or notice, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the Escrow Holder, the parties will confirm facsimile transmitted signatures by signing an original document.



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

19. Waivers. No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision in this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

20. Construction. Captions are solely for the convenience of the parties and are not a part of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. If the date on which Buyer or Seller is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

21. Time. Time is of the essence of every provision of this Agreement.

22. Force Majeure. Performance by Seller or Buyer of their obligations under this Agreement shall be extended by the period of delay caused by force majeure. Force majeure is war, natural catastrophe, strikes, walkouts or other labor industrial disturbance, order of any government, court or regulatory body having jurisdiction, shortages, blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused).

23. Successors. The terms, conditions and covenants contained in this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

24. Applicable Law. This Agreement shall be governed by the law of the State of Washington.



25. Expiration Date. This offer shall terminate if not accepted by Seller by 5:00 p.m. on \_\_\_\_\_.

**BUYER:**

THE CITY OF SEATTLE, A WASHINGTON MUNICIPAL CORPORATION

By: *Christopher Williams*  
Christopher Williams, Acting Superintendent of Parks and Recreation

**SELLER:**

*Ki Sop Kim* 10/14/11  
Ki Sop Kim, Trustee of The Kim Family Revocable Living Trust, Dated November 10, 2004

*Wan S. Kim* 10/14/11  
Wan S. Kim, Trustee of The Kim Family Revocable Living Trust, Dated November 10, 2004



STATE OF WASHINGTON )

) SS

COUNTY OF KING )

On this 1st day of SEPTEMBER, 2011, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared CHRISTOPHER WILLIAMS, to me known to be the ACTING Superintendent of Parks and Recreation of The City of Seattle, a Washington municipal corporation, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year first above written.

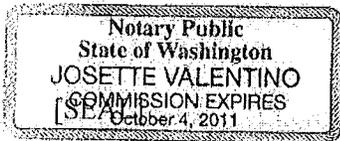
*Josette Valentino*

JOSETTE VALENTINO

(TYPE OR PRINT NAME)

Notary Public in and for the State of Washington, residing at SEATTLE

My Commission expires on 10/4/11



STATE OF WASHINGTON )

) SS

COUNTY OF KING )

On this 4th day of October, 2011, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Ki Sop Kim, known to me to be the individual who executed the foregoing instrument as Trustee of the Kim Family Revocable Living Trust, dated November 10, 2004, and acknowledged he signed the same as his free and voluntary act and deed as Trustee of said Trust for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year first above written.

*Wen H Lin*

(TYPE OR PRINT NAME)

Notary Public in and for the State of Washington, residing at Seattle

My Commission expires on 1/20/12

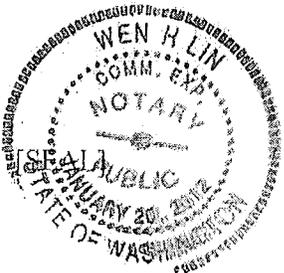




Exhibit List

- Exhibit A Legal Description
- Exhibit B Permitted Exceptions
- Exhibit C Rent Roll
- Exhibit D Form of Tenant Estoppel Certificate and Agreement
- Exhibit E Existing Leases
- Exhibit F New Leases

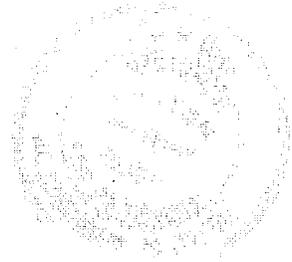


Exhibit A

LEGAL DESCRIPTION

The west 100 feet of the south  $\frac{1}{2}$  of Lot 4 in Block 14 of Osner's Second Addition to Seattle as per plat recorded in Volume 12 of Plats, page 3, records of King County.

EXCEPT portion thereof condemned in King County Superior Court Cause No. 65489 for widening Greenwood Avenue as provided by Ordinance No. 19334 of the City of Seattle.



Exhibit B

PERMITTED EXCEPTIONS

Subject only to the following exceptions as listed in First American Title Company dba Pacific Northwest Title Company, Inc., 215 Columbia Street, Seattle, WA 98104, Commitment 1106648 dated January 21, 2010, updated with Supplemental #1 dated February 17, 2010 Supplemental #2 dated July 26, 2010, Supplemental #3 dated October 18, 2010, and Supplemental #4 dated June 1, 2011:

1. Special District Charges.



Exhibit C

RENT ROLL  
(to be confirmed by Buyer and Seller)

Tenant	Suite	Expiration	Options	SF	Monthly Rent	Annual/SF	CAM
Aloha Ramen	8102-B	3/31/14	One 5-year, to 3/31/19	900 sf	\$ _____	\$18.39	\$ _____
Manna Teriyaki	8104	9/19/11	One 5-year, to 9/19/16	1,350 sf	\$ _____	\$15.11	\$ _____



Exhibit D

TENANT ESTOPPEL CERTIFICATE AND AGREEMENT

To: The City of Seattle  
c/o Department of Parks and Recreation  
800 Maynard Avenue South, 3<sup>rd</sup> Floor  
Seattle, WA 98134

Re: Lease dated \_\_\_\_\_ between THE KIM FAMILY REVOCABLE LIVING TRUST, DATED NOVEMBER 10, 2004, KI SOP KIM AND WAN S. KIM, TRUSTEES OF THE KIM FAMILY REVOCABLE LIVING TRUST, DATED NOVEMBER 10, 2004 ("Lessor"), and \_\_\_\_\_ ("Tenant") of premises located at \_\_\_\_\_ Greenwood Avenue North, Seattle, Washington 98103 ("Tenant's Lease")

Ladies and Gentlemen:

We understand that Lessor intends to sell to the City of Seattle ("City"), under threat of condemnation, the real property located at \_\_\_\_\_ Greenwood Avenue North, Seattle, Washington 98103 that is legally described on Attachment 1 incorporated herein ("Property"). We understand that as a condition to closing, the City requires termination, under threat of condemnation, of Tenant's Lease effective on the date of the City's acquisition of the Property; certain representations, warranties, assurances and agreements from Tenant about Tenant's Lease; and execution of a new lease effective on the date of the City's acquisition of the Property. We agree that the City may rely on this Tenant Estoppel Certificate and Agreement in acquiring the Property.

We hereby warrant to you and agree with you as follows:

1. The Tenant's Lease is in full force and effect, has not been modified or amended and is enforceable in accordance with its terms. A true and complete copy of the Tenant's Lease is attached hereto as Attachment 2.

2. The premises leased by Tenant under the Tenant's Lease are described as \_\_\_\_\_ ("Premises"),

3. The term of the Tenant's Lease commenced on \_\_\_\_\_, and expires on \_\_\_\_\_. As of the date hereof Tenant is in possession of the Premises in accordance with the terms of the Tenant's Lease.



4. Tenant has not assigned, transferred, or encumbered all or any portion of its interest in the Tenant's Lease. Tenant does not currently sublet the Premises, or any portion thereof.

5. To Tenant's actual knowledge, Tenant is not in default in the performance of any term or provision of the Tenant's Lease to be performed by Tenant. To Tenant's actual knowledge, no condition exists that, with the passage of time or the giving of notice, would constitute a default if not cured within any applicable cure period.

6. To Tenant's actual knowledge, Lessor is not in default in the performance of any term or provision of the Tenant's Lease to be performed by Lessor. To Tenant's actual knowledge, no condition exists that, with the passage of time or the giving of notice, would constitute a default if not cured within any applicable cure period.

7. Lessor has not waived the performance or observance by Tenant of any of the terms, covenants or conditions to be performed or observed by Tenant under the Tenant's Lease, and Tenant has not waived the performance or observance by Lessor of any of the terms, covenants or conditions to be performed or observed by the Lessor under the Tenant's Lease.

8. Tenant has received no notice and has no knowledge of a prior sale, transfer, assignment, hypothecation, or pledge of the Property, or any part thereof, or of the Tenant's Lease, or the rents or any other interest thereunder, besides the pending sale of the Property from Lessor, as seller, to the City, as buyer.

9. Tenant has never permitted, and will not permit, the generation, treatment, storage or disposal of any hazardous waste or other hazardous or toxic substances, as those terms are used under applicable local, state and federal environmental laws and regulations, and including petroleum products, on the Premises or the Property or any adjacent property.

10. The current rent under the Tenant's Lease is \_\_\_\_\_ Dollars (\$\_\_\_\_) per month, scheduled to increase to \_\_\_\_\_ Dollars (\$\_\_\_\_) per month starting \_\_\_\_\_. In addition, Tenant pays Lessor \_\_\_\_\_ Dollars (\$\_\_\_\_) per month for \_\_\_\_\_. No rent or other sum payable by Tenant under the Tenant's Lease has been prepaid, and Tenant shall not prepay rent or any other sum payable by Tenant prior the City's acquisition of the Property. As of the date hereof, there is no offset or defense to the payment of any rent, additional rent, or other sums payable under the Tenant's Lease.

11. Effective as of the date that the City acquires the Property, Tenant agrees that Lessor will terminate Tenant's Lease and that Tenant has, and will have, no claims against Lessor or the City for such termination.

12. Effective as of the date that the City acquires the Property, Tenant shall execute and acknowledge a new lease with the City as lessor. A copy of the new lease is attached hereto as Attachment 3.



13. No bankruptcy, insolvency, rearrangement or similar action involving Tenant or the Premises, whether voluntary or involuntary, is pending, threatened, by a third party, or contemplated by Tenant.

14. Tenant has filed all local, state and federal tax forms that are required to be filed by Tenant, has paid all taxes due and payable by Tenant to date and will pay all such taxes that become due and payable by Tenant prior to the Closing.

15. Tenant is current on all utility invoices, including, but not limited to, electricity, heating oil (if applicable), natural gas (if applicable), telephone, internet service, and cable.

16. Tenant's address for notice is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTN: \_\_\_\_\_

17. Tenant agrees to notify the City in writing, sent via first class mail return receipt requested or personally delivered, of any default under the Tenant's Lease and any change of circumstance or the occurrence of any event that affects the accuracy of the warranties or statements made by Tenant in this Tenant Estoppel Certificate and Agreement. The City's address for notice is:

Seattle Department of Parks and  
Recreation  
800 Maynard Avenue South  
Third Floor  
Seattle, WA 98134  
ATTN: Property Management

18. Tenant represents and warrants that this Tenant Estoppel Certificate and Agreement has been duly authorized, executed and delivered on behalf of Tenant.





STATE OF WASHINGTON )

COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_, 2011, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, known to me to be the individual who executed the foregoing instrument and acknowledged \_\_\_ signed the same as \_\_\_ free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year first above written.

\_\_\_\_\_

(TYPE OR PRINT NAME)

[SEAL]

Notary Public in and for the State  
of Washington, residing at \_\_\_\_\_  
My Commission expires on \_\_\_\_\_



Attachment 1  
Legal Description of the Property

The west 100 feet of the south  $\frac{1}{2}$  of Lot 4 in Block 14 of Osner's Second Addition to Seattle as per plat recorded in Volume 12 of Plats, page 3, records of King County.

EXCEPT portion thereof condemned in King County Superior Court Cause No. 65489 for widening Greenwood Avenue as provided by Ordinance No. 19334 of the City of Seattle.



Attachment 2

Copy of Tenant's Lease



Attachment 3

Copy of New Lease



Lise Ward  
DPR Greenwood-Phinney Acq C ATT 1  
February 28, 2012  
Version #1



EXHIBIT E EXISTING LEASES  
ALOHA RAMEN  
COMMERCIAL LEASE AGREEMENT.

**PARTIES:** The parties to this Lease Agreement, dated as of 04/01/09 are:

Lessor/Landlord: KI SOP KIM, and SUF. H. KIM

Lessee/Tenant : Land R GLOBAL ENTERPRISE, LLC

**PREMISES:** In consideration of the Rent (as defined herein) and the provisions of this Lease, the Landlord hereby leases to Tenant upon the terms and conditions herein set forth, real property commonly known as: Greenwood Place, ALOHA RAMEN, 102 Greenwood Ave. N. Seattle, WA 98103, situated in KING County, Washington, and legally described as in attached Exhibit "A", which description is fully incorporated herein by this reference.

**TERM/OPTION TO EXTEND THE LEASE TERM:** This lease shall be for a Term of 5 years, commencing 4/1/09; and ending 3/31/14. Tenant may extend the Term, provided the Tenant has not been in Default of the Lease at any time during the initial Lease Term; and is hereby granted an Option to extend the Term of this Lease for a period of five (5) years, commencing 4/1/14, and ending 3/31/19. The Tenant must give the Landlord written Notice of intention to extend the Lease Term at least One Hundred Twenty (120) days prior to expiration of the original Lease Term hereof. All of the terms and provisions of this Lease shall be effective during any such extension hereof, except that the Rental Rate for any extension of this Lease shall be determined at the beginning of the Extended Term, and shall be the then current fair market yearly rental for the space, which shall not exceed the average yearly rent of all tenants/merchants then renting at Greenwood Place.

**USE OF PREMISES:** The premises shall be used for the conduct of a \_\_\_\_\_, and activities incident thereto and for no other purpose without the prior consent of Landlord. Tenant shall not allow any nuisance, undue noise or vibration. Tenant shall not use the premises in any manner which would increase insurance premiums to the Landlord, or for any illegal purpose. Tenant shall comply with all governmental or applicable government agency rules, orders, regulations or requirements relating to the use and occupancy of the premises.

**RENT:** Tenant agrees to pay Landlord at Landlord's address set forth herein, or such other place as Landlord may designate in writing, BASIC RENT in the amount of:

<u>4/1/09</u> To <u>3/31/10</u>	\$ <u>1300.</u> plus CAMC
<u>4/1/10</u> To <u>3/31/11</u>	\$ <u>1339.</u> plus CAMC
<u>4/1/11</u> To <u>3/31/12</u>	\$ <u>1379.</u> plus CAMC
<u>4/1/12</u> To <u>3/31/13</u>	\$ <u>1420.</u> plus CAMC
<u>4/1/13</u> To <u>3/31/14</u>	\$ <u>1462.</u> plus CAMC

Per month, payable in advance on the first day of each and every consecutive month during the Term hereof, beginning as per Clause No. 3, above.

The "Total Rental Rate", shall be \$ 1300, and calculated as the sum of "Basic Rent", "Utilities and Fees", which the Lessee is obligated to pay under this Lease, and "Common Area Maintenance Charges", (CAMC), which the Lessee is obligated to pay under this Lease. The Total

EXHIBIT E EXISTING LEASES  
ALOHA RAMEN

**Rental Rate** shall be the Monthly Rental Payment, and shall be due in full on the 1st day of each month, without deduction or setoff by Lessee.

**LATE CHARGES:** Any Rent not received by the Landlord within five days of its due date, or any rent check returned for insufficient funds shall subject the Tenant to an additional Late Fee of 10% of the Monthly Rental Payment. The failure of the Lessee to pay late fee described herein by the due date of the next consecutive monthly rent payment shall be a material breach of and default of this Lease. No notification or other reminder shall be required from the Lessor to Lessee to enforce this provision, and any failure by the Landlord to immediately act on this instance of default by the Lessee shall in no way be construed as a waiver by the Landlord of this provision or the Landlord's rights and remedy granted hereunder by law.

**UTILITIES AND FEES:** Lessee shall provide at Lessee's sole expense for all Utilities and Services required by the Lessee for the proper use of the Premises during the term of this Lease. In the event that the leased premises are a part of a building

In the event that the leased premises are a part of a building condominium to which utilities, fees, and other services are billed to the Landlord directly from such service or utility providers, then Lessee agrees to pay, as part of the Total Rental Rate (defined herein) "Utilities and Services" in the sum of \$ 300. as the "Utilities and Services" element of the "Total Rental Rate". "Utilities and Services" shall be a variable part of the Total Rental Rate, and should the amount charged to the Landlord for Utilities and Services increase from the Initial Utilities and Services sum stated above, then the Lessee agrees to pay, within ten days of written demand by the Landlord, Lessee's proper and fair share of said increase.

**COMMON AREAS and COMMON AREA MAINTENANCE CHARGE (CAMC.)**

Tenant shall have nonexclusive use of all areas of Greenwood Place building/condominium designated by the Landlord as "Common Areas", and attached hereto as Exhibit "A". Tenant shall use the Common Areas only for the right of access to the Premises, and may not lease, sublease, or otherwise use or allow to be used the Common Areas for any other purposes.

Lessee shall be required to pay, as part of the "Total Rental Rate" the Common Area Maintenance Costs (hereinafter referred to as "CAMC") of the Common Areas in the estimated sum of \$ 300. From and after the date Rent has commenced, and thereafter during the Term, Tenant shall pay to the Landlord, on the first day of each calendar month, an amount estimated by Landlord to be the Tenant's Proportionate Share of CAMC for the period covered by such estimate. This estimated monthly charge may be adjusted by Landlord at the end of any calendar month on the basis of Landlord's experience and reasonably anticipated CAMC.

The term "Tenant's Proportionate Share" shall be defined as a fraction, the numerator of which is the Floor Area of the premises, and the denominator of which is the Floor Area of the building in the Shopping Center available for exclusive use and occupancy by tenants (excluding the Floor Area of those areas, if any, designated by Landlord on Exhibit "A" as "Major Stores"), determined by Landlord from time to time on a consistent basis. As of the date of this Lease the Shopping Center contains a total Floor Area of 900 square feet.



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ALOHA RAMEN

Said CAMC shall be reviewed at the end of each year by the Landlord. CAMC shall include without limitation any and all sums expended by the Landlord or any agent or affiliate thereof in connection with the Premises, the Common Areas, and Shopping Center for general maintenance and repairs, janitorial cleaning, trash removal services, lighting, HVAC and all other utility expenses cost of security, all on site personnel expenses of the Landlord cost of security, all on site personnel expenses of the Landlord, all real and personal property taxes and assessments on improvements and land comprising the Common Areas and Shopping Center or any personalty rented for, or in use thereon, premiums.

For adequate comprehensive and general liability, property damage, plate glass, and vandalism insurance covering the Landlord's ownership and operation of the Common Areas and Shopping Center, fire and extended insurance coverage thereon. CAMC Shall include a charge and sum payable to the Landlord for the appropriate reserves for the above costs, and supervision of the Common Areas and Shopping Center and for accounting, bookkeeping and collection of CAMC, in an amount equal to 10% of the total of all the foregoing CAMC incurred in each calendar year.

Within 60 days following the end of each calendar year, Landlord shall furnish Tenant with a Statement showing the actual CAMC for the preceding year, the actual amount of Tenants' Proportionate Share of CAMC for that year, and the payments made by Tenant for that year. If Tenants' Proportionate Share of CAMC exceeds the estimated payments by the Tenant during that preceding year, Tenant shall pay Landlord the deficiency within 10 days after receipt of such Statement and demand for payment. If Tenants' estimated payments exceed the Tenant's Proportionate Share of CAMC, Tenant may offset the excess against rent payments thereafter coming due.

REPAIRS: Lessee shall be required by this Lease to make such repairs as necessary to maintain the Premises and all improvements alterations, signs, and glass thereof in the good and tenantable condition accepted in by Lessee. Such repairs must be made by the Tenant within 30 days of written Notice from the Landlord demanding that such repairs be made or the Tenant shall be in default of this Lease. The Lessee shall not be responsible for repairs of the Premises caused solely by reasonable use and wear.

ALTERATIONS / TRADE FIXTURES: Tenant shall make no changes improvements or alterations to the premises without the prior written consent of the Lessor. All such changes, improvements and alterations and any repairs made by the Tenant shall remain on the Premises and shall become the property of the Landlord upon the expiration or sooner termination of this Lease. All such changes improvements and alterations and any repairs made by the Lessee shall comply with all laws, ordinances rules and regulations of any proper public or governmental authority.

Tenant shall, at Tenant's expense remove all non-attached equipment or trade fixtures of Tenant and repair any damage to the premises occasioned by the removal thereof. Any equipment or property of the Tenant left in the premises after the expiration or sooner termination of this Lease shall be deemed abandoned by the Tenant and become the property of Landlord to dispose of as Landlord deems expedient without accounting to Tenant therefore.



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ALOHA RAMEN

**SIGNS:** Tenant shall not affix or maintain on any part of the Premises any signs, advertising or other descriptive material of any type without receiving the written approval of Landlord to display such items, or any particular such item. Tenant shall not affix any sign to the roof of the Premises. Tenant shall not distribute handbills or other advertising devices in the Shopping Center. Lessor may demand the removal of any sign or symbols which are not so approved, or which are in derogation of the Lessor's written approval. Lessee's failure to comply with written request by the Lessor to so remove any sign or symbol within 48 hours of receipt of such notice will constitute a material breach of this Agreement and default under this Lease. In lieu of termination under the Lease, the Lessor may elect to cause the offending sign or symbol removed and the building/ premises repaired at the sole expense of the Lessee. Such expense shall be immediately due and payable under this Lease, and the Lessee's failure to pay this expense will be a default, and grounds for the Lessor's termination of this Lease.

**CONDEMNATION:** In the event that all or a part of the Premises is taken by any public authority under the power of eminent domain, or purchased by a condemnor in lieu thereof, which in the sole discretion and opinion of the Lessor renders the Premises economically untenable, then this lease shall terminate automatically as of the date possession is taken by said public authority. All damages awarded for the taking or damaging of all or any part of the Shopping Center or the Premises shall belong to and be the property of the Lessor and all claims to such award. Nothing in this clause shall be construed as precluding Tenant from asserting any claim or receiving any award against such public authority for disruption or relocation of Tenant's business on the Premises.

**LIENS:** Tenant shall pay all costs for work done by or for Tenant in the Premises. Tenant shall have no authority, express or implied to authorize any work, construction or other labor in or on the Premises except as specifically provided for in writing by the Landlord. Tenant shall keep the Premises, Building and Shopping Center free of all mechanic's and other labor liens. Tenant shall indemnify and hold Landlord harmless from and against any and all liability, loss, damage, costs and attorney's fees and all other expenses on account of claims for labor and/or materialman's work.

Tenant shall not suffer or permit any lien to be filed or recorded against the Premises or any part of the Tenant's leasehold interest, by reason of work, labor services or any other reason. If any such lien is filed Tenant shall cause the same to be discharged of record within thirty days after the filing of the same. Failure to cause such a discharge shall constitute a material default under the Lease.

**SUBLETTING OR ASSIGNMENT:** Lessee shall not have the right under this Lease to assign, sublet, transfer, or encumber the whole, or any part of the Premises without the prior written consent of the lessor. This Lease may not be assigned by the operation of law. If Tenant is a corporation, a merger consolidation liquidation, or any change in ownership or the power to vote the majority of its outstanding voting stock shall constitute an assignment, whether the result is of a single transaction or series of transactions. Landlord may assign its interest in this Lease.

**POSSESSION AND ACCEPTANCE OF PREMIISES:** The taking of possession of the Premises by the tenant shall constitute acknowledgement by the tenant that the premises were in good and tenable condition and as represented by the Landlord.



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DAMAGE OR DESTRUCTION: If the Premises, Building or Shopping Center are damaged or destroyed by fire or any cause other than the act or omission of Tenant, its employees, agents, invitees or licensees, Landlord may elect to either: (a.) restore the Premises and Building except for any fixtures, improvements, and alterations installed by Tenant; to as nearly practicable to their condition immediately prior to such damage or destruction; or (b.) not restore or rebuild the Premises or Building and notify the Lessee of such election, in which event the Lease shall terminate.

In the event Lessor chooses to restore the Premises or Building then the Lessee shall be responsible under this Lease for restoring all fixtures, improvements, and alterations installed by Tenant. In the event that the Premises or Building/ Condominium are damaged or destroyed by fire or any cause act or omission of the Tenant, its employees, agents, invitees or licensees, Landlord may elect to restore the Premises and building except for any fixtures, improvements, and alterations installed by Tenant, to as nearly practicable to their condition immediately prior to such damage or destruction at the Lessee's expense. Tenant agrees to reimburse Landlord upon demand for all sums expended for such restoration.

Any restoration under this provision shall be promptly commenced and diligently prosecuted. Lessor shall not be liable for any consequential damages by reason of any such damage or destruction.

If Lessor undertakes to restore the premises and/or Building, then commencing with the date of the damage or destruction, and continuing through the restoration period, the rent for the Premises shall be abated for such period in the same proportion as the untenable portion of the Premises bears to the whole thereof, except, that there shall be no abatement to the extent that any such damage or destruction was caused by any act or omission of Tenant its employees, agents, invitees or licensees.

ACCIDENTS AND LIABILITY: Tenant agrees that Landlord shall not be liable for any claims for death or injury to person or damages to or for the destruction of property sustained by Tenant or by any other person in the Premises, including without limiting the generality of the foregoing, any claims arising from the condition of the Premises or the Building, unless such damage is caused by the sole negligence of the Landlord. Tenant hereby waives all claims therefore and agrees to indemnify the landlord against any loss, damage, or liability or any expense incurred by Landlord in connection therewith.

INSURANCE / TENANT'S FIRE INSURANCE: Tenant shall, at Tenant's expense, maintain public liability and property damage insurance insuring against any and all claims for injury or death of person and loss or damage to property occurring upon, in, or about the Premises. Such insurance shall have liability limits of not less than \$ 1 million in respect of injury or death to any one person, not less than \$ \_\_\_\_\_ for property damage with a maximum deductible of \$ \_\_\_\_\_. All such insurance shall, name the Landlord and tenant as Co-insureds, with both a severability of interest indorsement, and an indorsement providing that such policies may not be cancelled or modified by the Tenant or the Insurance Carrier unless twenty days prior written notification shall have been given to the Landlord.



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On or before taking possession of the Premises pursuant to this Lease, Tenant shall furnish the Landlord with a certificate evidencing the aforesaid Insurance coverage, and renewal certificates shall be furnished to Landlord at least 30 days prior to the expiration date of each such policy. All such insurance shall be issued by carriers acceptable to Landlord.

Tenant shall, at Tenant's expense maintain on all of Tenant's personal property and leasehold improvements and alterations on the Premises a policy of standard fire insurance, with extended coverage, in the amount of their replacement value. Such insurance shall name the Tenant and Landlord as co-insureds. All proceeds of any such insurance shall be applied first to the restoration of the fixtures, improvements and alterations made by the Tenant to the Premises.

DEFAULT AND RE-ENTRY: The occurrence of any of the following event shall be deemed a breach of this lease, to wit; if Tenant shall fail to pay Rent as provided for in this lease; if Tenant shall make an assignment for the benefit of creditors, or shall file a voluntary petition under any federal or state bankruptcy act or under any law for the relief of debtors; or if an involuntary petition is filed against the Tenant under any such law, and is not dismissed within 60 days, or if a trustee or receiver be appointed for the property of Tenant under any such law which is not discharged or removed within 60 days, or if any department of an government or any officer or agent thereof shall take possession of the business or property of Tenant. Upon any such occurrence, Landlord may, at its option terminate this Lease by Notice to Tenant, and upon such termination, Tenant shall quit and surrender the premises to Landlord; Tenant remaining liable as hereinafter provided.

If Tenant shall default in performance of any of the Tenant's obligations under this lease or shall violate any term or provision of this Lease, or if the premises shall be left vacant or unoccupied for a period of ten consecutive days, Landlord may upon giving the Tenant ten days Notice, or Notice as otherwise required by law, terminate this Lease and upon such termination Tenant shall quit and surrender the premises to Landlord; Tenant remaining liable as hereinafter provided. Alternatively, If Tenant shall fail to make any payment or perform any of Tenant's obligations under this Lease, Landlord without notice to or demand upon Tenant, and without waiving or releasing Tenant from any obligations of Tenant under this lease, may make payment or perform any other obligation of tenant under this Lease, in such manner and to such extent as landlord deems desirable. All sums paid by the Landlord and all necessary costs and expenses in connection therewith together with necessary costs and expenses in connection therewith together with interest at he rate of 12% per annum compounded monthly from the date of the making of such expenditure by Landlord, shall be deemed additional rent hereunder and shall be payable upon demand.

If the lease shall be terminated as provided herein, Landlord may immediately or at any time thereafter re-enter the Premises, and remove any and all persons and property therefrom at Landlord's option to either: (a.) the nearest adjoining public property, (b.) storage facility of Landlord's choice; or if required by law proceed under any suitable proceeding at law or otherwise without liability therefore, and re-enter the premises and thereupon remove any and all persons and property therefrom at Landlord's option to either: (a.) the nearest adjoining public property, (b.) storage facility of Landlord's choice; without such re-entry diminishing the Tenants obligations to pay rental for the full term of the Lease.



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ALCHA RAMEN

Tenant agrees to pay Landlord any deficiency arising from re-entry and re-letting of the premises at a lesser rental than provided for under this Lease. Landlord may apply any proceeds of re-letting first to payment of all reasonable expenses and costs as Landlord may have incurred in recovering possession of the premises, and removing property of the Tenant, or storing any possessions or property of the Tenant, of putting the premises in good order or condition, and all other reasonable expenses incurred by Landlord in re-letting the premises; and then to Tenant's obligation to pay rental. In any such instance of default under this Lease, and whether or not the premises shall be re-let, Tenant agrees that the Tenant shall be liable for the rent for the full term of the Lease, and all charges required to be paid by the defaulting Tenant hereunder in an aggregate sum payable by the Tenant upon termination. It is agreed by the Tenant that a judgment for this obligation may be sought and obtained against the Tenant by the Landlord if payment is not tendered to the Landlord prior to bringing any such suit for judgment; subject only to any equitable defense or setoff which the Tenant may be entitled to. Alternatively, the Landlord may at its option seek payment of Tenant's liability for all rent due for the full term of the Lease, and all charges required to be paid by the defaulting Tenant hereunder on a monthly basis, and the landlord may bring an action therefore as such monthly deficiencies arise.

COSTS AND ATTORNEY'S FEES: If an action be commenced relating to the provision of this Lease, or any default hereunder, or to enforce any of the provisions of this Lease, the prevailing party shall, in addition to its other remedies, be entitled to recover its reasonable attorney's fees and costs, including any costs which shall be incurred by that party in any Federal Bankruptcy proceeding, or upon the appeal of any of any such action.

USE AND REGULATIONS: Tenant shall comply with all governmental rules, orders, regulations, or requirements relating to the Tenant's use of and occupancy of the Premises. Tenant shall use the Premises and Common Areas in accordance with the rules and regulations provided by, and which may be from time to time amended by the Landlord and attached hereto as Exhibit "A"; and shall cause Tenant's employees, agents, invitees, and licensees to abide by such rules and regulations. Tenant shall not allow any use of the Premises which would constitute a nuisance under applicable Washington law.

NOTICE: All notice, demands, and requests to be given by either party shall be in writing. All such correspondence shall be deposited in the U.S. mail postage prepaid, certified, return receipt requested to the lessor at:

and to the Lessee at:

\_\_\_\_\_ or such  
other address as either party may designate in writing.

Notice, demand, and requests served by the Landlord or Tenant as provided in this section shall be deemed sufficiently served or given for all purposes hereunder at the time such notice request of demand shall be so mailed in any post office in Washington.

FORCE MAJEURE: Landlord's failure to perform any obligation under this Lease shall be excused if due to causes beyond the control, and without fault or negligence of the Landlord, including but not limited to acts of God, acts of the public enemy, acts of any government, fires, floods, epidemics, and strikes.



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ALOHA RAMEN

**NON-WAIVER:** No failure of the Landlord to insist upon strict performance of any provision of the Lease shall be construed as depriving Landlord of the right to insist on strict performance of such provision or any other provision in the future. Tenant/Lessee hereby agrees and acknowledges that no waiver by the Landlord of any provision of this lease shall be deemed to have been made in law or in equity unless expressed in writing and signed by the landlord.

**PARTIAL INVALIDITY:** If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of the Lease and all other terms, shall not be affected thereby, and shall remain in valid in force, effect, and be enforceable as written to the fullest extent permitted by law.

**ENTIRE AGREEMENT:** This document contains the entire and integrated agreement of the parties, and may not be modified except in writing signed and acknowledged by both parties.

**INTERPRETATION:** This lease has been submitted to the scrutiny of all parties hereto, and their counsel if desired, and shall be given fair and reasonable interpretation in accordance with the words hereof, without consideration or weight being given to its having been drafted by any party hereto or their counsel.

**REMEDIES CUMULATIVE:** The specified remedies to which Landlord may resort under the terms of this Lease are cumulative and shall not be exclusive. Landlord shall be entitled to the restraint by injunction of any violation, or attempted or threatened violation, of the covenants, conditions, or provisions of this lease.

**JOINT AND SEVERAL LIABILITY:** Subject to specific provisions of liability stated herein, this agreement shall be binding upon the parties hereto, jointly and severally upon the Tenant and any general partners of any partnership which is a Tenant, and upon their respective executors, administrators, legal representatives successors, and assigns.

**RENTAL DEPOSIT:** Lessee agrees to pay as prepaid rent for the first and last month under this lease the sum of \$ 3,000. Concurrently with Lessee's execution of this Lease, Lessee has delivered to the Lessor the sum of \$ 3,000 , as Security Deposit for the performance by the Tenant of Tenant's obligations hereunder. This deposit shall bear no interest. If tenant shall default in performance of any of Tenant's obligations hereunder, Landlord may apply the whole or any part of such Security Deposit to the payment and/or performance of such obligation. Tenant shall, within ten days of the Landlord's mailing (via certified mail to the Tenant's Notice Address as stated herein) of written request from Landlord, restore the amount on deposit to its original balance. Such failure to restore shall be a material breach and default of this Lease. Any balance of the Security Deposit shall be returned to Tenant at the expiration of, or sooner termination of this Lease upon satisfaction of any and all of Tenant's obligations under the Lease.

**QUIET ENJOYMENT:** Landlord covenants and agrees that Tenant, upon performance of all the Tenant's obligations under this Lease, shall lawfully and quietly hold, occupy and enjoy the premises during the term of this Lease without disturbance by Landlord or by any person having title paramount to Landlord's title or by any person claiming under Landlord, subject to the other



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terms and provisions of this lease and subject to all mortgages, underlying leases and other underlying matters of record to which this lease is or may become subject to and subordinate.

MAINTENANCE BY LANDLORD: Landlord shall maintain in good condition the structural and exterior components of said Premises. Landlord shall maintain, repair and replace, when necessary, light fixtures plumbing, heating and electrical system. However, Landlord shall not be obligated to repair or replace any fixtures or equipment installed by Tenant and Landlord shall not be obligated to make any repair or replacement occasioned by actor omission of Tenant, their employees, agents, invitees or licenses.

ACCESS TO THE PREMISES: Landlord and Tenant agree and acknowledge that upon written request of the Landlord, the Tenant shall arrange for the Landlord's access to the Premises for general inspection purposes during the Term of the Lease. Tenant agrees to sign a written approval of Premises condition prior to occupancy and commencement of Lease Term. Landlord may inspect the premises at all reasonable times and enter the same for the purpose of cleaning, repairing, altering, improving or exhibiting the same or the building, but nothing herein shall be construed as imposing any obligation on Landlord to perform any such work.

LANDLORDS INSURANCE: Landlord shall maintain on the Premises and Shopping Center a policy of standard fire, liability, and hazard insurance with extended coverage in an amount of its replacement value. All proceeds of any such insurance shall be the property of and payable to Landlord.

INDEMNITY BY TENANT: Tenant agrees that Landlord shall not be liable for any claims for death or injury to person or damages to or destruction of property sustained by Tenant or by any other person in the Premises, including without limiting the generality of the foregoing, any claims caused by or arising from the condition or maintenance of any part of the Premises or the building, unless such damage is caused by the negligence of the Landlord. Tenant hereby waives all claims therefore and agrees to indemnify Landlord against any such loss, damage or liability or any expense incurred by Landlord in connection therewith.

CONDEMNATION: If all of the Premises is taken by any public authority under the power of eminent domain, this lease shall terminate as of the date possession is taken by said public authority pursuant to such condemnation.

If any part of the Premise is so taken and, in the opinion of either Landlord or Tenant, it is not economically feasible to continue this lease in effect, either party may terminate this lease. If any part of the building is so taken and, in the opinion of the Landlord, it is not economically feasible to continue this lease in effect, Landlord may terminate this lease. Such termination by either party shall be made by notice to the other given not later than thirty days after possession is so taken, the termination to be effective as of the later of thirty days after said notice or the date of possession is so taken.

If any part of the Premises or part of the building is so taken and neither Landlord nor Tenant elects to terminate this lease, or until termination is effective, as the case may be, the rental shall be abated in the same proportion as the portion of the Premises so taken bears to the whole of the



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Premises, and Landlord shall make such repairs or alteration, if any as are required to render the remainder of the Premises tenantable.

PERFORMANCE OF COVENANTS: If either party shall fail to make any payments or perform any of their obligations under this lease, the other parties, without notice to or demand upon the first party and without waiving or releasing that party from any of their obligation under this lease, may make any payment or perform any other obligation of that parties under this lease, in such manner and to such extent as the other party deems desirable. All sums so paid by Landlord and all necessary costs and expenses in connection with the performance of any such obligation by Landlord, shall be deemed additional rent hereunder and shall be payable to Landlord on demand. All sums so paid by Tenant and all necessary costs and expenses in connection with the performance of any such obligation by Tenant shall be deemed an offset to the rental hereunder and shall be deducted from next months rent.

SURRENDER OF PREMISES: Subject to Landlord's obligations hereunder, Tenant, at the expiration or sooner termination of this lease, shall quit and surrender the Premises in good, neat, clear and sanitary condition, except for reasonable wear and tear and damage not caused by any act or omission by Tenant, their employees, agents, invitees or licensees.

MEMORANDUM OF LEASE: Both parties consent that a memorandum of this Lease may be recorded and placed of record in King County.







EXHIBIT E EXISTING LEASES  
MANNA TERIYAKI  
81210171

**LEASE AGREEMENT - COMERCIAL PREMISES**

THIS COMMERCIAL LEASE made this 18<sup>th</sup> day of Sept, 2006, by and between Ki Sop, hereinafter called LANDLORD and Il Jun, hereinafter called TENANT. KIM CHANG

WITNESSETH:

1. **Premises:** Landlord does hereby lease to Tenant that certain premises commonly known as Manna Teriyaki located at 8104 Greenwood Ave N, Seattle, WA 98103 in the area of King County, Washington, hereinafter called PREMISES MORE FULLY DESCRIBED IN THE ATTACHED Legal Description.

2. **Term:** The term of this Lease shall be for Five (5) years commencing the September 20, 2006, and shall terminate on the 19th day of September 2011. If Tenant is not in default, Tenant shall have One Option to renew this Lease for additional Five (5) year term if the Tenant exercise this Option by giving Landlord a written notice of not less than 90 days prior to the end of the initial lease term, and further, on the condition that Tenant is not in default of any of the provisions hereof. If the Tenant timely exercises this Option, then the Lease shall constitute in effect upon the same terms and conditions, except that rent shall be subject to annual increase at the rate of 3%.

3. **Rent:** Tenant covenants and agrees to pay Landlord at the address provided below by Landlord or any subsequent address provided to Tenant by Landlord, or to such other party or at such other place as Landlord may hereafter designate, monthly rent in the following amount:

\$1,700.00 per month subject to Triple Net subject to annual increase by Three Percent (3%)

Security Deposit \$3,000.00 due at the execution of Lease Agreement

Rent shall be paid in advance on the first day of each month of the lease term, except that partial prorated shall be due at the time of the commencement of the lease.

In addition to the rent as provided above, Tenant shall pay to Landlord in monthly installments, the Tenant's pro rata share of all insurance premiums, including land, building and improvements hereon. Said insurance shall include all insurance premiums for fire, liability, loss of rents insurance, and any other insurance and endorsements which may include an "all risk" endorsements or any other insurance, that Landlord or Landlord's lender deems necessary on the premises.

In addition to the rent as provided above, Tenant shall pay to Landlord monthly Tenant's pro rata share of the common area maintenance charges. Maintenance charges include but not limited to general maintenance and repairs, relocation of facilities, resurfacing, painting, striping, re-striping, cleaning, snow removal, sweeping and



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MANNA TERIYAKI

janitorial services, maintenance and repair of sidewalk, landscaping, sprinkling system, and cost of security system or personnel.

In addition to the rent as provided above, Tenant shall pay all real estate taxes for the property on a monthly basis. The Landlord shall estimate 1/12 of the yearly real estate taxes and shall collect such on a monthly basis with the rental.

4. Use: N/A

5. **Utilities:** Tenant shall pay before delinquency, at its sole cost and expense, all charges for water, gas, heat, electricity, power, telephone service, sewer service charges and sewer rentals charged or attributable to the premises, and all other services or utilities used in, upon or about the premises by Tenant or any of its subtenants, licensees or concessionaires during the Lease Term hereof and the cost of installing meters therefore, provided, however, that if any such services or utilities shall be billed to Landlord and are not separately metered to the premises, the amount hereof shall be prorated, and Tenant shall pay to Landlord upon demand as additional rental hereunder, an amount equal to that proportion of the total charges therefore which the number of square feet of gross floor area in the premises bears to the total number of square feet of gross floor area leased and occupied in the area covered by such combined charges. In no event shall Landlord be liable for an interruption or failure in the supply of any such utilities to the premises.

6. **Personal Property Taxes:** Tenant shall pay, or cause to be paid, before delinquency, any and all taxes levied, assessed and/or which become payable during the Lease Term hereof upon all or any part of Tenant's leasehold improvements, equipment, furniture, fixtures, and any other personal property located in the premises. In the event any or all of the Tenant's leasehold improvements, equipment, furniture, fixtures and other personal property shall be assessed and taxed with the real property, Tenant shall pay to Landlord its share of taxes within ten (10) days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes applicable to Tenant's property.

7. **License and Taxes:** Tenant shall be liable for, and shall pay throughout the Lease Term, all license and excise fees and occupation taxes covering the business conducted on the premises. If any governmental authority or unit under any present or future law effective at any time during the Lease Term hereof shall in any manner levy a tax on rents payable under this Lease or rents accruing from use of the premises or a tax in any form against Landlord because of, or measured by income derived from the leasing or rental of said property, such tax shall be paid by Tenant, either directly or through Landlord, and upon Tenant's default therein, Landlord shall have the same remedies as upon failure to pay rent. It is understood and agreed, however, that Tenant shall not be liable to pay any net income tax imposed on Landlord unless, and then only to the extent that, the net income tax is a substitute for real estate taxes.



EXHIBIT E EXISTING LEASES  
MANNA TERIYAKI

8. Maintenance of Premises:

8.1 Maintenance and Repair by Tenant. Tenant shall at all times throughout the Lease Term at its sole cost and expense keep the premises (including exterior doors and surfaces, all windows and moldings and trim of all doors and windows) and all partitions, door surfaces, fixtures, equipment, and appurtenances thereof in good order and repair. The costs of any such repaired shall be billed directly to, and paid by, Tenant. If there is an air conditioning system serving the premises, Landlord will contract for preventive maintenance checks, filter changes, repairs and replacement, and service and Tenant agrees to pay the Tenant's pro rata share of such preventative maintenance calls, filter changes, repairs and replacements on or for the units serving Tenant's premises. The bills and invoices for such pro rata share may be delivered directly to Tenant by the contractor providing such services. Without limiting the generality thereof, Tenant shall keep the glass of all windows, doors, and showcases clean and presentable, replace all broken glass in the premises, and keep all utilities within the premise in good state of repair.

8.2 Failure to Maintain. In the event Tenant fails to perform Tenant's obligations under this section 8.1, Landlord shall give Tenant notice to do such acts as are reasonably required to do so maintain the Premises; if Tenant fails to commence such work and diligently prosecute it to completion, then the Landlord shall have the right but not the obligation to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work.

8.3 Entry. By entry hereunder, Tenant shall be deemed to have accepted the premises as being in good and sanitary order, condition and repair.

9. Signs: All signs or symbols placed by Tenant in the windows or doors of the premises, or upon any exterior part of the building, shall be subject to Landlord's prior written approval. Landlord may demand the removal of signs which are not so approved, and Tenant's failure to comply with said request within forty-eight (48) hours will constitute a breach of this paragraph and will entitle Landlord to terminate this Lease or, in lieu thereof, to cause the sign to be removed and the building repaired at the sole expense of the Tenant. At the termination any damage caused by such removal. All signs must comply with sign ordinances and be placed in accordance with required permits. Tenant shall be solely responsible for any taxes and/or assessments regarding said sign(s).

10. Alterations: Tenant shall not, without Landlord's prior written consent, make any alterations, additions, improvements or utility installations in, or about the Premises, except for nonstructural alterations not exceeding \$1,000 in cost. As used in this Section 10, the terms "utility installations" shall include ducting, power panels, fluorescent fixtures, space heaters, conduit and wiring. As a condition to giving such consent, Landlord may require that Tenant agree to remove any such alterations, additions, improvements or utility installations at the expiration of the term and to restore the Premises to their prior conditions. Landlord shall not unreasonably withhold its



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consent; provided that consent by Landlord shall not be construed as requiring Tenant to make any improvements or alterations.

Unless Landlord requires their removal, as set forth in Paragraph 10(a), all alterations, additions, improvements and utility installations (whether or not such utility installations constitute trade fixtures of Tenant), which may be made on the Premises, shall at the expiration or earlier termination of the Lease become the property of Landlord and remain upon and be surrendered with the Premises. Notwithstanding the provisions of this Paragraph 10, personal property, business and trade fixtures, cabinet work, furniture, movable partitions, machinery and equipment, other than that which is affixed to the Premises so that it cannot be removed without material damage to the Premises, shall remain the property of Tenant and may be removed by Tenant subject to the provisions of this Agreement at any time during the term of this lease when Tenant is not in default.

11. **Condemnation:** In the event of substantial part of the premises is taken or damaged by the right of eminent domain, or purchased by the condemner, in lieu thereof, so as to render the remaining premises economically un-tenantable, then this Lease, including options and extensions, shall be canceled as of the time of taking at the option of either party. In the event of a partial taking which does not render the premises economically un-tenantable, the rent shall be reduced in direct proportion to the leased property taken, Tenant shall have no claim to any portion of the compensation for the taking or damaging of the land or building.

12. **Parking:** Tenant understands that parking is apportioned in conformity with controlling zoning ordinances and that Landlord shall have the right to make such regulations as Landlord deems desirable for the control of parking automobiles on the real property described above, including the right to designate certain areas for parking of the Tenant, employees and sub-tenants of Tenant, and clients and customers of Tenant and Tenant's sub-tenants.

13. **Liens and Encumbrances:** Tenant shall keep the premises free from any liens arising out of any work performed for, materials furnished to, or obligations incurred by Tenant and shall hold Landlord harmless against the same. The Tenant shall not cause or suffer to be placed, filed or recorded against the title to the premises, the building of which the premises is a part or any other part thereof, any mortgage, deed of trust, security agreement, financing statement or other encumbrance; and further, in no event shall the lien of Tenant's mortgage, deed of trust, or other security agreement or financing statement cover the premises, the building of which the premises is a part of any part thereof.

14. **Subletting and Assignment:** Tenant shall not assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or interest therein, nor sublet the whole or any part of the premises without the written consent of the landlord, which consent shall not be unreasonably withheld, and this Lease shall not be assignable by operation of law.



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For the purpose hereof, a consolidation or merger of Tenant, or change in the ownership of Tenant shall be deemed and assignment.

Without in any way limiting Landlord's right to refuse to give such consent for any reason or reasons, Landlord reserves the right to refuse to give such consent unless Tenant remains fully and primarily liable during the un-expired Lease Term hereof and Landlord further reserves the right to refuse to give such consent if in Landlord's reasonable business judgment the quality of merchandising experience or the financial worth of the proposed new tenant is less than of the Tenant executing this Lease. Tenant agrees to reimburse Landlord for Landlord's attorney's fees incurred in connection with the processing, review and/or documentation of any such requested transfer, assignment, or subletting of this Lease.

15. **Access:** Landlord shall have the right to enter the premises at all reasonable times for the purpose of inspection or of making repairs, additions or alteration, and to show the premises to prospective tenants for sixty (60) days prior to the expiration of the Lease Term.

16. **Possession:** If for any reason Landlord is unable to deliver possession of the premises at the commencement of the term of the Lease, Tenant may give Landlord written notice of Tenant's intention to cancel this Lease if possession is not delivered within thirty (30) days after receipt of such notice by Landlord. Landlord shall not be liable for any damages caused by delay, and Tenant shall not be liable for any rent until such time as Landlord delivers possession. Any delay of possession shall not extend the term, option, or the termination date. If Landlord offers possession of the premises prior to the commencement date of the term of this Lease, and if Tenant accepts such early possession, then both parties shall be bound by all of the covenants and terms contained herein, including the payment of rent during such period of early possession.

17. **Damage or Destruction:** If the leased premises or the building is destroyed or damaged by fire, earthquake or other casualty to the extent that they are untenable in whole or part, then Landlord may, at Landlord's option, proceed with reasonable diligence to rebuild and restore the said Premises or such part thereof, providing that within thirty (30) days after such destruction or injury Landlord shall in writing notify Tenant of Landlord's intention to do so. During the period from destruction or damage until restoration, the rent shall be abated in the same ratio as that portion of the leased Premises which Landlord determine is unfit for occupancy shall bear to the whole leased Premises.

If damage is due to the fault or neglect of Tenant, then this Lease shall, at the expiration of the time for the giving of notice as herein provided, be deemed terminated and at an end.

To the extent not caused by Landlord's actions, Landlord shall not be required to repair any injury or damage by fire or other cause, or to make any repairs or replacements



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of any panels, decorations, office fixtures, railings, floor covering, partitions, or any other property installed in the Premises by Tenant

18. **Insurance, Accidents and Liability:** Landlord and/or Landlord's agent(s) shall not be liable for any injury or damage to persons or property sustained by Tenant or others in and/or about the premises and property. Tenant agrees to defend and hold Landlord and Landlord's agent(s) harmless from any claim, action and/or judgment for damages to property or injury or persons suffered or alleged to be suffered on the premises by any person, firm or corporation, unless caused by Landlord's own negligence.

Insurance shall at all times be in an amount of not less than \$1,000,000.00 for injury to or death of any one person in any one accident or occurrence and in an amount of not less than \$2,000,000.00 for injury to or death of more than one person in any one accident or occurrence, and in amount of not less than \$50,000.00 for liability for property damage. The limits of such insurance shall not limit the liability of Tenant. Tenant shall deliver to Landlord certificates of insurance evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to landlord, provided that in the event Tenant fails to procure and maintain such insurance, Landlord may (but shall not be required to) procure same at Tenant's expense after then (10) days prior written notice. No such policy shall be cancelable or subject to reduction of coverage or other modification except after (30) days prior written notice to Landlord by the insurer. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which the Landlord may carry. Tenant shall, within twenty (20) days prior to the expiration of such policies, furnish Landlord with renewals or binders or Landlord may order such insurance and charge the cost to Tenant, which amount shall be payable by Tenant upon demand. Tenant shall have the right to provide such insurance coverage pursuant to blanket policies obtained by Tenant provided such blanket policies expressly afford coverage to the Premises and to Tenant as required by this Lease.

If Tenant does not provide such insurance as provided above, Landlord shall, after giving Tenant written notices to obtain such insurance within three (3) days, be entitled to obtain such insurance at Tenant's sole cost and expense. Tenant shall pay such premium within fifteen (15) days of receipt of an invoice regarding such premiums.

In the event the demised structures on the premises shall be damaged or destroyed by fire or other casualty so insured against, lessee shall claim no interest in any insurance settlement arising out of any loss and/or damage to structures where premiums are paid by Lessor where Lessor is named as the sole beneficiary, and it will execute all documents required by Lessor or the insurance companies that may be necessary for use in connection with settlement of any such loss.

To the extent not caused by Landlord's actions, the Tenants shall not be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the premises, Tenant's personal property or any inconvenience or annoyance occasioned by such damage, repair, reconstruction or restoration.



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If the leased premises or the building is destroyed or damaged by fire, earthquake or other casualty to the extent that the buildings on the property are **untenable in whole**, then Tenant may, at Tenant's option, provide written notice to the Landlord of Tenant's cancellation of the lease in its entirety and Tenant must vacate the premises within thirty (30) days after such destruction or injury.

19. **Tenant's Default:**

19.1 **Default.** The occurrence of any one or more of the following events shall constitute a default and breach of this Lease:

(a) **Vacating the Premises.** The vacating or abandonment of the premise by Tenant or the failure of Tenant to be opened for business (except in the event of damage or destruction to the premise which prevents Tenant from conducting any business thereon).

(b) **Failure to Pay Rent.** The failure by Tenant to make any payment of rent, adjustments, or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of Five (5) days after written notice thereof by Landlord to Tenant.

(c) **Failure to Perform.** The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by the Tenant, where such failure shall continue for a period of Twenty (20) days after written notice thereof by Landlord to Tenant; provided, however that if the nature of Tenant's default is such that more than Twenty (20) days are reasonable required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said Twenty (20) day period and thereafter diligently prosecutes such cure to completion.

(d) **Bankruptcy.** The making by Tenant of any general assignment or general arrangement for the benefit of creditors; or by the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy (unless, in the case of petition filed against Tenant, the same is dismissed within sixty (60) days of filing); or the appointment of a trustee or a receiver to take possession of substantially all of Tenant's assets located at the premise or of Tenant's interest in this Lease, where such seizure is not discharged in thirty (30) days after appointment of said trustee or receiver, or the filing of a petition for the appointment of the same, whichever shall first occur. In the event Tenant becomes insolvent, bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of Tenant, Landlord may cancel this Lease at Landlord's sole option and discretion.

(e) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; the failing by or against Tenant or a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under



EXHIBIT E EXISTING LEASES  
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any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

19.2 Remedies in Default. In the event of any such default or breach by Tenant, Landlord may at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of a right or remedy, which Landlord may have by reason of such default.

(a) Terminate Lease. Terminate Tenant's right to possession of the premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the premises to Landlord. In such event, Landlord shall be entitled to recover from the Tenant all past due rents, adjustments, and other charges; the expense of re-letting the premises, including necessary renovation and alteration of the premises, reasonable attorney's fees; the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid rent and other charges and adjustments called for herein for the balance of the Lease Term after the time of such award exceed the amount of such loss for the same periods that Tenant proves could be reasonably avoided; and that portion of any leasing commission paid by Landlord and applicable to the un-expired Lease Term of this Lease. Unpaid installments of rent or other sums shall bear interest from the date due at the rate of twelve percent (12%) per annum; or

(b) Continue the Lease. Maintain Tenant's right to possession, in which case Lease shall continue in effect whether or not Tenant shall have abandoned the premises. In such event, Landlord shall be entitled to enforce all Landlord's rights and remedies under this Lease, including the right to recover the rent and any other charges and adjustments as may become due hereunder; or

(c) N/A

19.3 Acceptance of Payment. It is specifically understood and agreed that the Landlord's acceptance of any sum, whether as rent or adjustment or other payments due hereunder, which is less than the amount claimed as due by the Landlord, shall not act as, or be deemed to be, a waiver of such claimed amount or a compromise or accord and satisfaction of the amount claimed as due, by Landlord.

20. Default by Landlord: Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than sixty (60) days after written notice by Tenant to Landlord. Said notice shall specify wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than sixty (60) days are



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required for performance then Landlord shall not be in default if Landlord commences performance within such sixty (60) day period and thereafter diligently prosecutes the same to completion. Tenant further agrees not to invoke any of its remedies under this Lease until said sixty (30) days have elapsed. In no event shall Tenant have the right to terminate this Lease as a result of Landlord's default and Tenant's remedies shall be limited to damages and/or an injunction.

21. **Removal of Property:** In the event Landlord lawfully reenters the premises as provided herein, Landlord shall have the right, but not the obligation, to remove all the personal property located therein and to place such property in storage at the expense and risk of Tenant.

22. **Cost and Attorneys Fees:** If, by reason of any default or breach on the part of either party in the performance of any of the provisions of this Lease, a legal action is instituted, the losing party agrees to pay all reasonable attorney's fees, including the prevailing party's reasonable attorneys fees, in connection therewith. It is agreed that venue of any legal action brought under the terms of this Lease shall be King County, State of Washington.

23. **No Waiver of Covenants:** Any waiver by either party of any breach hereof by the other shall not be considered a waiver of any future breach. This Lease contains all the agreements between the parties, and there shall be no modification of the agreements contained herein except by written instrument.

24. **Surrender of Premises:** Tenant agrees, upon termination of this Lease, to peacefully quit and surrender the premises without notice, lease the premises in neat and clean, and to deliver all keys to the premises to Landlord.

25. **Holding Over:** If Tenant, with the implied or express consent of Landlord, shall hold over after the expiration of the term of this Lease, Tenant shall remain bound by all the covenants and agreements herein, except that the tenancy shall be from month to month.

26. **Binding on Heirs, Successors and Assigns:** The covenants and agreements of this Lease shall be binding upon the heirs, executors, administrators, successors and assigns of both parties hereto.

27. **Notice.** All notices or demands of any kind required or desired to be given by Landlord or Tenant hereunder shall be in writing and shall be deemed delivered forty-eight (48) hours after depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the Landlord or Tenant respectively at the addresses set forth after signatures at the end of this Lease.

28. **Indemnity:**

28.1 Compliance with Environmental Laws. Tenant shall cause the



EXHIBIT E EXISTING LEASES  
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Property and the operations conducted thereon to comply with all Environmental Laws and orders of any governmental authorities having jurisdiction under any Environmental Laws and shall obtain, keep in effect and comply with all governmental permits and authorizations required by Environmental Laws with respect to such property or operations. Tenant shall furnish Landlord with copies of all such permits and authorizations and any amendments or renewals thereof and shall notify Landlord of any expiration or revocation of such permits or authorizations.

28.2 Preventive, Investigatory and Remedial Action. Tenant shall exercise extreme care in handling Hazardous Substances if Tenant uses or encounters any. Tenant, at Tenant's expense, shall undertake any and all preventive, investigatory or remedial or action (including emergency response, removal, containment and other remedial action) (a) required by any applicable Environmental Laws or orders by any governmental authority having jurisdiction under Environmental Laws, or (b) necessary to prevent or minimize property damage (including damage to occupant's own property), personal injury or damage to the environment, or the threat of any such damage or injury, by releases of or exposure to Hazardous Substances in connection with the property or operations of any occupant on the property.

28.3 Indemnification. Tenant shall indemnify and hold Landlord harmless from and against any and all claims of liability for any injury or damage to any person or property arising from Tenant's use of the Premises, or from the conduct of Tenant's business, or from any activity, work or thing done, permitted or suffered by Tenant in or about the Premises or elsewhere. Tenant shall further indemnify and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under this Lease, or arising from any negligence of Tenant or Tenant's agents, contractors or employees, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or action or proceeding brought thereon. In the event any action or proceeding is brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall defend same at Tenant's expense by counsel satisfactory to Landlord. Tenants, as a material part of the consideration to Landlord, hereby assumes all risks of damage to property or injury to persons, in upon or about the Premises arising from any cause and Tenant hereby waives all claims in respect thereof against Landlord. Notwithstanding the above, Tenant shall have no obligation to indemnify and hold harmless Landlord regarding environmental contamination that existed at the time this lease was entered into

29. **Miscellaneous:**

29.1 Partial Invalidity. If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or enforceable, shall not be affected thereby and each term, covenants or conditions of this Lease shall be valid and be enforced to the fullest extent permitted by law.



EXHIBIT E EXISTING LEASES  
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29.2 Waiver. The waiver by Landlord of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent or any other adjustment or sum hereunder by Landlord shall not be deemed to be a waiver of any preceding default by Tenant of any term, covenant or condition of this Lease, other than the failure of the Tenant to pay the particular sum so accepted, regardless of Landlord's knowledge of such preceding default at the time of the acceptance of such sum.

29.3 Joint Obligation. If there be more than one Tenant, the obligations hereunder imposed shall be joint and several.

29.4 Late Charge. Any payments required of Tenant, as stated above, which are received by Landlord more than five (5) days after the applicable due date, shall be subject to a late charge of twelve percent (12%) per annum of the payment due and owing.

29.5 Time. Time is of the essence of this Lease and each and all of its provisions in which performance is a factor.

29.6 Applicable Law. This Agreement has been delivered to the Landlord and accepted by Landlord in the State of Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

29.7 Accounting. Tenant shall keep, or cause to be kept, full and complete and proper book, records, and accounts of the gross sales and credits of each separate department and concession at any time operation in the demised premises; said books, records and accounts, including any sales tax reports that tenant may be required to furnish to any governmental agency shall at all reasonable times be open to the inspections of Landlord's auditor or other authorized representative or agent.

29.8 Modification for Lender. If, in connection with obtaining construction, interim, or permanent financing for the building, and when such lender/s shall ask/s for modifications in this Lease as a condition to such financing, at Landlord's request, Tenant shall do and accommodate any and all reasonable modification requests of this Lease as long as the material or substantive parts of this Lease remain intact.

29.9 Prior Agreement. THIS LEASE CONTAINS THE ENTIRE AGREEMENT OF THE PARTIES HERETO AND ANY AND ALL ORAL AND WRITTEN AGREEMENTS, UNDERSTANDING, REPRESENTATION, WARRANTIES, PROMISES AND STATEMENTS OF THE PARTIES HERETO AND THEIR RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, AGENTS AND BROKERS WITH RESPECT TO THE SUBJECT MATTER OF THIS LEASE AND ANY MATTER COVERED OR MENTIONED IN THIS LEASE SHALL BE MERGED





EXHIBIT E EXISTING LEASES  
MANNA TERIYAKI

STATE OF WASHINGTON )

) ss.

COUNTY OF )

On this day personally appeared before me \_\_\_\_\_, to me known  
to be the individual described in and who executed the within and foregoing Commercial  
Lease for \_\_\_\_\_ instrument, and acknowledged that \_\_\_\_\_ signed the same and  
free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

NOTARY PUBLIC in and for the State  
Of Washington, residing at:  
My commission expires:



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF )

On this day personally appeared before me \_\_\_\_\_, to me known  
to be the individual described in and who executed the within and foregoing Commercial  
Lease for \_\_\_\_\_ instrument, and acknowledged that \_\_\_\_\_ signed the same and  
free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

NOTARY PUBLIC in and for the State  
Of Washington, residing at:  
My commission expires:



EXHIBIT F NEW LEASES  
QUICK STOP  
LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is entered into by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington, as Lessor (hereinafter referred to as the "City"), and KI SOP KIM AND WAN S. KIM AS TRUSTEES OF THE KIM FAMILY REVOCABLE LIVING TRUST, DATED NOVEMBER 10, 2004, dba Quick Stop, (hereinafter referred to as "Lessee"). As used in this Lease, "Superintendent" means the Superintendent of the City's Department of Parks and Recreation.

WHEREAS, Lessee has been operating Quick Stop at 8102 Greenwood Avenue North, Seattle, Washington since 2004; and

WHEREAS, the City acquired the real property with street addresses of 8102, 8102-B and 8104 Greenwood Avenue North, Seattle, Washington and legally described in Exhibit A attached hereto ("Property") from Lessee under threat of eminent domain for future development of a public park; and

WHEREAS, Lessee wishes to continue doing business as Quick Stop on the Property and the City is willing to permit Lessee to operate the business subject to the terms and conditions of this Lease; and

WHEREAS, Lessee is aware that it is possible that the City will terminate this Lease prior to its expiration date; and

WHEREAS, the City is aware that Lessee may wish to terminate the Lease prior to its expiration date to relocate to another mini-mart site; NOW THEREFORE, the parties agree as follows:

**1. PREMISES AND COMMON AREA:**

The City hereby leases to the Lessee and the Lessee hereby leases from the City the premises commonly known as 8102 Greenwood Avenue North, Seattle, Washington; 98103, consisting of approximately 1674 square feet of commercial space (the "Premises"). The Premises are a portion of the building ("Building") on the Property and are depicted on attached Exhibit B. During the Lease Term (defined in Section 3 below), Lessee, its employees and its customers shall have the non-exclusive right to use the public areas of the Property, including the parking lot and walkway/sidewalk in front of the Building (the "Common Areas"), in common with other Building occupants and their respective customers and employees. The City shall at all times have exclusive control and management of the Common Areas and no diminution thereof shall be deemed a constructive or actual eviction or entitle Lessee to compensation or a reduction or abatement of Rent (defined in Section 4 below).

**2. USE/PURPOSE:**

The Premises may be used only for the following use and purpose: Mini-mart selling non-alcoholic drinks, beer, wine, pre-packaged foods and snacks, toiletries, and similar items. Prohibited items for sale include adult/pornographic items/magazines and knives.



### EXHIBIT F NEW LEASES

#### 3. TERM:

The term of this Lease ("Lease Term") begins \_\_\_\_\_, 20\_\_\_\_ ("Commencement Date"), and ends on March 31, 2014. Lessee may extend the term, provided Lessee has not been in default of the lease at any time during the Lease Term; and is hereby granted an option to extend the term of this Lease for a period of Thirty (30) months, commencing April 1, 2014 and ending September 30, 2016. The Lessee must give the City written notice of intent to extend the lease at least One Hundred Twenty (120) days prior to the expiration of the Lease Term hereof.

#### 4. RENT:

Lessee shall pay to the City without deduction, offset, prior notice or demand Base Rent and Additional Rent, each as defined below, in lawful money of the United States at Seattle Department of Parks & Recreation; Magnuson Park & Business Resources; 6310 NE 74<sup>th</sup> Street #109E; Seattle, WA 98115; ATTN: Rita Hollomon, or as the City may from time to time otherwise designate in writing. Base Rent and, if appropriate, as reasonably determined by City, Additional Rent shall be prorated on a daily basis for any partial month within the Lease Term, and for any partial initial month in the Lease Term shall be paid on the first day of the Lease Term. "Rent" means Base Rent plus Additional Rent.

##### A. Base Rent:

Commencing on the Commencement Date, Lessee shall pay to the City in advance on the first (1<sup>st</sup>) day of each month during the Term of this Lease, fixed rent for the Premises according to the following schedule ("Base Rent"):

	Rent
- March 31, 2013	\$2,073.00
April 1, 2013-March 31, 2014	\$2,135.19
April 1, 2014-March 31, 2015	\$2,199.25
April 1, 2015-September 30, 2016	\$2,265.23



## EXHIBIT F NEW LEASES

### B. Additional Rent:

All amounts that Lessee is required to pay to the City pursuant to this Lease (other than Base Rent) shall constitute additional rent ("Additional Rent") whether or not designated as Additional Rent. Lessee shall promptly pay to the City all Additional Rent as and when specified in this subsection or elsewhere in this Lease, but if not specified, then within ten (10) days after written demand.

Commencing on the Commencement Date, Lessee shall pay to the City, in advance on the first (1<sup>st</sup>) day of each month during the Term of this Lease, Lessee's estimated share of solid waste (garbage/composting/recycling), sewer and water bills, and King County property tax "Other Charges" (consisting of, but not limited to: noxious weed charge, surface water management fees, and the King Conservation District) for the Property as follows: \$ \_\_\_\_\_ . On an annual basis, the City will reconcile Lessee's estimated payments with Lessee's actual share based upon Lessee's liability for ten percent (10%) of the sewer and water bill, one-third (1/3) of the solid waste bill, and a pro rata share (42.66%) of the King County property tax "Other Charges" and Lessee shall pay any amounts owing to the City within ten (10) days after written demand. If the estimated payments exceed Lessee's actual share, then Lessee may offset such overpayment against the next monthly estimated payment.

Commencing on the Commencement Date, in lieu of Lessee paying, Lessee's estimated share of the cost of maintenance of the Common Areas, Lessee shall perform the work, including, but not limited to: graffiti removal from exterior walls, replacement of exterior light bulbs and fixtures, sweeping outside areas, exterior window cleaning, garbage removal, grass/landscaping maintenance (if any), and snow shoveling.

### 5. LEASEHOLD EXCISE TAX:

Lessee shall pay the applicable Leasehold Excise Tax ("LET"), which, as of the commencement of this Lease is 12.84% of Base Rent, which rate is subject to change by the State of Washington. Lessee shall pay LET in advance to Lessor without notice, demand, set-off or deduction, on or before the 1st day of each month during the Term of this Lease together with the payment of Base Rent.

### 6. LATE CHARGE/INTEREST:

If Lessee fails to pay when due any Rent, such amount shall bear interest at a rate of 12% per annum from the date due until the date paid. In addition, any Rent payment received more than five (5) days after its due date will be subject to a \$25.00 late fee.



## EXHIBIT F NEW LEASES

### 7. SECURITY DEPOSIT:

The City shall collect a security deposit in the amount of Three Thousand and no/100 Dollars (\$3,000.00) prior to the beginning of the lease term ("Security Deposit"). The City, at any time, may apply such deposit against any default by the Lessee in the payment of Rent, and, in the event of any such application, shall charge and retain the processing fee to cover the City's administrative expenses in invoicing the Lessee as a consequence of such default. If any portion of the Security Deposit is applied by the City, the Lessee, upon demand, shall immediately deposit additional cash with the City to restore the Security Deposit to its original amount. The City shall return any unused portion of the Security Deposit, without interest, to the Lessee within 30 business days after expiration or earlier termination of this Lease, subject to Lessee's full performance of its obligations under this Lease.

### 8. INSURANCE:

Lessee shall maintain, at its own expense, insurance as specified below and provide the City with copies of the certificates of insurance showing the following coverages are in force:

#### A. Minimum Coverages and Limits of Liability:

##### 1. Commercial General Liability (CGL) Insurance including:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Liability
- Contractual Liability
- Independent Contractors Liability
- Liquor Liability/Host Liquor Liability (if applicable)
- Employers Liability/Stop Gap (only if Worker's Compensation insurance required)
- Fire Damage Legal Liability

with a minimum limit of liability of \$2,000,000 each occurrence combined single limit bodily injury and property damage (CSL), except \$100,000 Fire Damage Legal Liability. The City shall be listed as Additional Insured with primary and noncontributory status on the certificate of insurance. In addition to the certificate of insurance, Lessee shall provide the City with a copy of the Additional Insured endorsement.

- ##### 2. Automobile Liability insurance, including coverage for owned, non-owned, leased or hired vehicles as appropriate with a minimum limit of liability of \$1,000,000 CSL. This requirement may be satisfied with personal lines insurance and primary insurance or any combination of primary and excess/umbrella insurance.



## EXHIBIT F NEW LEASES

3. **Worker's Compensation insurance**, if required to secure Lessee's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. Lessee is not required to provide coverage to individuals exempt from mandatory coverage as described in the Washington State Department of Labor & Industries Employers Guide to Industrial Insurance in Washington State. If the Lessee is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Lessee shall so certify.
4. **Property insurance**, covering Lessee's furniture, trade fixtures, equipment, inventory and tenant improvements on a replacement cost basis against (1) loss from the perils of fire, and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (CP 10 30), and (2) Loss or damage from water damage, or sprinkler systems now or hereafter installed in or on the Premises. Any deductible in excess of \$1,000 shall be disclosed to, and is subject to the approval of, the City.

### B. General Terms and Conditions (Not Applicable to Worker's Compensation):

1. **Additional Insured on Primary and Non-Contributory Basis:**  
Such minimum insurance coverages and limits of liability as provided under items 1 and 2 above shall include the City of Seattle as an additional insured for primary and non-contributory limits of liability. The limits of liability specified are minimums only and shall not be construed to limit the liability of Lessee or any of its insurers to less than the stated limits of liability of each policy. Where the City is an additional insured, it shall have such status for the full limits of liability maintained by Lessee, whether such limits are primary, excess, contingent or otherwise.
2. **Cancellation:**  
Coverage and shall not be reduced or canceled without thirty (30) days prior written notice to the City, except ten (10) days with respect to cancellation for non-payment of premium, unless a longer notice period is required under RCW 48.18.290. In addition, Lessee's insurance shall be primary, as respects the City, and any other insurance maintained by the City shall be excess and not contributing insurance with the Lessee's insurance.
3. **Security of Insurers:**  
All insurers must be licensed to do business in the State of Washington and rated A-: VII or higher in the A.M. Best's Key Rating Guide unless issued as surplus lines under the provisions of RCW 51.
4. **Change in Risk:**  
The City reserves the right to alter minimum coverages and/or limits of liability upon periodical review of the appropriateness of such limits in view of inflation and/or changing industry conditions and to require an increase in such coverages or limits upon ninety (90) days prior written notice.



## EXHIBIT F NEW LEASES

### C. Evidence of Insurance:

Lessee shall procure a certificate of insurance from an insurer or authorized agent/broker that demonstrates compliance with the provisions of this Section 8 that is issued to: The City of Seattle, P.O. Box 94669, Seattle, WA 98124-4669. Such certificate with an attached copy of the CGL additional insured policy provision shall be emailed in PDF format to riskmanagement@seattle.gov and to Seattle Department of Parks & Recreation; Magnuson Park & Business Resources; 6310 NE 74<sup>th</sup> Street; Seattle, WA 98115; ATTN: Rita Hollomon, or to such other party or at such other place as the City may hereinafter designate.

### D. Waiver of Subrogation:

The City and Lessee each waive any claim against the other, or the other's employees or agents, for loss of or damage to (i) any personal property in the Premises, or (ii) the Premises or Building by reason of fire, or any other cause, to the extent such loss or damage is covered by insurance required under the terms of this Lease. This waiver shall apply even though such loss or damage may arise from the negligence of either party, its agents or employees; provided that if the Premises or Building are damaged due to Lessee's negligence, or the negligence of its agents or employees, Lessee shall reimburse the City any out of pocket amount paid under its property insurance deductible. This waiver shall be inapplicable if it would have the effect of invalidating any insurance coverage of the City or the Lessee.

## 9. UTILITIES AND SERVICES:

### A. Utilities:

Lessee shall pay when due to the appropriate providers, all charges for utilities for the Premises, except charges for water, sewer and solid waste (garbage/composting/recycling), which are Additional Rent, and shall be paid as provided in Subsection 4.B. above.

### B. Services:

Lessee shall provide all necessary housekeeping and janitorial services for the Premises at its sole cost and expense using service providers acceptable to the City. Lessee shall pay such providers on a timely basis.

### C. Interruption:

The City shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of utility services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed an eviction of Lessee or to relieve Lessee from any of Lessee's obligations hereunder or to give Lessee a right of action against City for damages. The City has no obligation to provide emergency or backup power to Lessee or the Premises. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Lessee. If utilities are interrupted at the Premises so as to render the Premises unfit for their permitted uses, then the Base Rent shall be abated, on a pro rata basis, for the duration of the disruption.



## EXHIBIT F NEW LEASES

10. **AGREEMENT CONTENTS:** This Lease, including Exhibits A and B, which are made a part of this Lease, embodies the entire agreement of the parties. There are no other understandings or agreements, written or oral, between the parties relating to the subject matter of this Lease.
11. **EFFECTUATION OF AGREEMENT:** In order to be effective, (1) this Lease must be signed by the Lessee, (2) the City must have received the Security Deposit and evidence of all required policies of insurance, and (3) this Lease must be signed by the Superintendent pursuant to ordinance authority.
12. **LIABILITY:**
- A. Indemnification:**  
The Lessee shall indemnify and hold the City harmless from any and all claims, costs, suit, penalties, liabilities, or damages resulting from any claimed or actual accident, injury or death to person(s) or damage to property arising out of Lessee's use, occupation or improvement of the Premises, or that of any of its officers, employees, agents, licensees, or invitees. Lessee agrees that the foregoing indemnity specifically covers actions brought by its own employees. As a result, the foregoing indemnity is specifically intended as a waiver of Lessee's immunity under Washington's Industrial Insurance Act, RCW Title 51, but only as to the City and to the extent necessary to provide City with a full and complete indemnity from claims made by Lessee and its employees, to the extent of their negligence. Lessee shall promptly notify City of casualties or accidents occurring in or about the Premises. This indemnity with respect to acts or omissions during the Lease Term shall survive termination or expiration of this Lease for any time period applicable to the limitation of actions. CITY AND LESSEE ACKNOWLEDGE THAT THEY SPECIFICALLY NEGOTIATED AND AGREED UPON THE INDEMNIFICATION PROVISIONS OF THIS SECTION
- B. Assumption of Risk, Release:**  
The placement and storage of personal property on the Premises shall be the responsibility, and at the sole risk, of the Lessee. Lessee releases the City from any and all claims arising from damage to or loss of Lessee's personal property on the Premises.
13. **COMPLIANCE WITH LAW:**
- A. Applicable Law:**  
This Lease shall be construed under and governed by all applicable laws of the United States of America and the State of Washington and the Charter and ordinances of The City of Seattle, as well as all rules and regulations of any such governmental entity.
- B. Licenses, Permits and Taxes:**  
The Lessee shall be liable for, and shall pay throughout the term of this Lease, all license and excise fees and occupation taxes covering the business conducted on the Premises, and all taxes on personal property of the Lessee on the Premises and any excise or other taxes on the leasehold interest created by this Lease.



## EXHIBIT F NEW LEASES

### C. Equal Employment Opportunity and Nondiscrimination:

Without limiting the generality of Subsection 13.A., the Lessee shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and The City of Seattle, including but not limited to Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code, as may be amended from time to time, and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

### D. Permits:

The Lessee, at no expense to the City, shall obtain any and all building permits, change of use permits, and/or certifications of occupancy from the City as may be required and shall deliver a copy of the same to the Director when occupying the Premises.

### 14. NO SUBLEASES OR ASSIGNMENTS; LIMITATIONS ON USE AND PURPOSE:

The Lessee shall not sublease, assign, or encumber the Premises or any portion or any interest thereof, or engage in any activity with respect to or on the Premises other than for the express uses and purposes stipulated herein, without obtaining the City's prior written approval, which may be withheld in the City's sole discretion.

### 15. USE AND CARE OF THE PREMISES:

#### A. General Condition:

The Lessee shall keep the Premises at all times and at no expense to the City, in a neat, clean, safe and sanitary condition; and shall keep and use the Premises in accordance with the laws of the State of Washington and Charter and ordinances of The City of Seattle, and in accordance with all authorized rules and regulations of the Health Officer, Fire Marshall, Building Inspector and other officers of The City of Seattle. The Lessee shall not permit any waste, damage, or injury to the Premises; use or permit on the Premises anything that will increase the rate of fire insurance thereon; maintain anything on the Premises that may be dangerous to life or limb; overload the floors, permit any objectionable noise or odor to escape or to be emitted from the Premises; permit anything to be done upon the Premises that in any way will tend to create a nuisance or disturb any other tenants of the Building; or use or permit the use of the Premises for lodging or sleeping purposes.

#### B. Maintenance and Repairs:

The Premises have been inspected by both parties, have been continuously occupied by Lessee since 2004 and are accepted by Lessee in their existing condition as of the Commencement Date of this Lease, without reservation. All normal maintenance and repairs to roof, exterior walls and foundations and existing utility connections to and from the Building necessary to maintain the Building in a tenable condition (except as expressly provided below) shall be done by or under the direction of the City, and at the City's expense, except those caused by the negligence or acts of the Lessee, or the Lessee's officers, employees, agents or invitees, which repairs shall be made at the sole expense of the Lessee. All other maintenance and repairs to the Premises, including, without limitation, the interior of the Premises and exterior windows and doors (including glass replacement), shall be the responsibility of and at the sole expense of the Lessee, except that such maintenance and repairs shall be subject to the prior written approval of and shall be undertaken at the direction of the City.



## EXHIBIT F NEW LEASES

### C. Alterations:

The Lessee shall not make, or cause to be made, any alteration, addition or improvement in the Premises without first obtaining the written consent of the City for such work and obtaining permits, if required. All alterations, additions and improvements that are made after the signing of this Lease shall be at the sole cost and expense of Lessee, and shall become the property of the City upon the termination or expiration of the Lease, and shall remain in and be surrendered with the Premises as part thereof at the termination of this Lease, without disturbance, molestation or injury. The City reserves an unqualified right to make alterations to the Premises or to the Building (1) where conditions deemed by the Superintendent to constitute an emergency exist; and (2) in order to correct code-deficiencies; and (3) where such alterations do not unreasonably interfere with the ordinary operation of the Premises by the Lessee.

### D. Access:

The City reserves for itself, its officers, employees, agents and contractors, free access to the Premises at all reasonable times for the purposes of inspecting, cleaning or making repairs, additions or alterations to the Premises or the Building, but this right shall not be construed as an agreement on the part of the City to make inspections, clean, or make repairs, additions or alterations.

### E. Signs:

The Lessee shall not display, inscribe, paint or affix to any part of the Premises any sign except a sign that has been approved, in writing, by the Superintendent, prior to such placement. The City shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises and to show the Premises to prospective tenants during the thirty (30) days prior to the expiration or termination of this Lease.

### F. Hazardous Substances:

Lessee shall not, without the City's prior written consent, keep on or about the Premises or Building or Property any substance designated as, or containing any component now or hereafter designated as hazardous, dangerous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance ("Hazardous Substances"), except customary office, kitchen, cleaning and other related supplies in normal quantities handled in compliance with applicable laws. With respect to any Hazardous Substances stored with the City's consent, Lessee shall promptly, timely and completely comply with all governmental requirements for reporting and record keeping; submit to the City true and correct copies of all reports, manifests and identification numbers at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; within five (5) days after the City's request therefor, provide evidence satisfactory to the City of Lessee's compliance with all applicable governmental rules, regulations and requirements; and comply with all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment and disposal of Hazardous Substances. Any and all costs incurred by the City and associated with the City's inspections of the Premises and the City's monitoring of Lessee's compliance with this subsection, including the City's attorneys' fees and costs, shall be Additional Rent and shall be due and payable to City within ten (10) days after the City's demand therefor, if Lessee's violation of this subsection is discovered as a result of such inspection or monitoring. Lessee shall be fully and completely liable to the City for any and all cleanup costs and expenses and any and all other charges, expenses, fees, fines, penalties (both, civil and



## EXHIBIT F NEW LEASES

criminal) and costs imposed with respect to Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises or Building or Property. Lessee shall indemnify, defend and hold City harmless from any and all of the costs, fees, penalties, charges and expenses assessed against, or imposed, upon the City (as well as the City's attorneys' fees and costs) as a result of Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances on or about the Premises or Building or Property. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

### **G. Liens and Encumbrances:**

Lessee shall keep the Premises, Building and Property free and clear of, and shall indemnify, defend and hold City harmless from, any and all, liens and encumbrances arising or growing out of any act or omission, or breach of this Lease or the use, improvement or occupancy of the Premises by Lessee. If any such lien is filed against the Premises or Building or Property, Lessee shall either cause the same to be fully discharged and released of record within ten (10) days after the City's written demand therefor or, within such period, provide the City with cash or other security acceptable to the City in an amount equal to one and one-half (1½) times the amount of the claimed lien as security for its prompt removal. The City shall have the right to disburse such security to cause the removal of the lien if the City deems such necessary, in the City's sole discretion.

### **H. Prohibition Against Installation or Integration of Any Work of Visual Art on Premises Without City's Consent:**

The City reserves to and for itself the right to approve or disapprove of the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration. Lessee shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without the City's prior, express, written consent. The City's consent to the installation of any such art work may be granted, granted upon one or more conditions, or withheld in the City's discretion.

### **I. Lessee's Indemnification of City Against Liability under Visual Artists Rights Act of 1990:**

Lessee shall protect, defend, and hold City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; or (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of Subsection 15.H. of this Lease; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Lessee or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether City or any other person employed by City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.



## EXHIBIT F NEW LEASES

### 16. **DAMAGE OR DESTRUCTION:**

If the Premises are damaged by fire, earthquake, act of war, or other casualty, the City shall have the option to terminate this Lease. Within forty-eight (48) hours after the happening of any such event, the Lessee shall give the Superintendent notice of such event. The Superintendent shall have thirty (30) days after the Superintendent's receipt of such notification to notify the Lessee, in writing, of the City's intention to repair or rebuild the Premises, or any part so damaged, or to terminate this Lease. If the City elects to rebuild or repair the Premises, the City shall prosecute the work of such repairing or rebuilding without unreasonable delay, in accordance with the then-existing City procedures, and during such period the Base Rent and any Additional Rent under the Lease for the Premises shall be abated in the same ratio that the portion of the Premises rendered for the time being unfit for occupancy bears to the whole of the Premises; upon the completion of such rebuilding or repair, the Lessee shall immediately reoccupy the Premises and pay the full Rent set forth in this Lease.

If the Building, but not the Premises, is damaged by fire, earthquake, act of war, or other casualty, the City shall have the option to terminate this Lease. Within forty-eight (48) hours after the happening of any such event, the Lessee shall give the Superintendent notice of such event. The Superintendent shall have thirty (30) days after the Superintendent's receipt of such notification to notify the Lessee, in writing, of the City's intention to repair or rebuild the Building, or any part so damaged, or to terminate this Lease. If the City elects to rebuild or repair the Building, the City shall prosecute the work of such repairing or rebuilding without unreasonable delay, in accordance with the then-existing City procedures, and during such period the Base Rent and any Additional Rent under the Lease for the Premises shall not be abated unless the parties mutually determine that it is not feasible for Lessee to operate Lessee's business during such repairing or rebuilding, in which case Base Rent and Additional Rent will be abated until the repairing or rebuilding is complete. Upon the completion of such rebuilding or repair, the Lessee shall immediately reoccupy the Premises and pay the full Rent set forth in this Lease.

If the Building is destroyed, then either party shall have the option of terminating this Lease.

Under this Section 16, to terminate this Lease a party must provide thirty (30) days' prior written notice of termination to the other. Notwithstanding any other provision of this Lease, no party to this Lease shall be liable in damages to any other party for terminating this Lease, in accordance with the provisions of this section, because of the damage to or destruction of the Premises or the Building.

### 17. **NOTICES:**

Any notice to be given by either party to the other shall be in writing and may either be delivered, personally, or may be deposited in the United States mail, postage prepaid, as either certified or regular mail, addressed to:



## EXHIBIT F NEW LEASES

City:

Seattle Department of Parks & Recreation  
Magnuson Park & Business Resources  
6310 NE 74<sup>th</sup> Street #109E  
Seattle, WA 98115  
ATTN: Rita Hollomon

Lessee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to such other respective addresses as either party may, from time to time, designate in writing.

**18. RELATIONSHIP:**

In no event shall the City be construed or held to have become in any way or for any purpose a partner, associate, or joint venturer of the Lessee or any party associated with the Lessee in the conduct of the Lessee's business or otherwise. This Lease does not make the Lessee the agent or legal representative of the City for any purpose whatsoever.

**19. AMENDMENTS:**

The parties hereto especially reserve the right to renegotiate and change the provisions of this Lease, from time to time, as may be necessary. No alteration or modification of the terms or conditions of this Lease shall be valid and binding unless made in writing and signed by the authorized representatives of the parties hereto.

**20. NO WAIVER OF DEFAULT:**

The City does not waive full compliance with the terms and conditions of this Lease by acceptance of Rent. No waiver of default by either party of any of the terms, covenants, and conditions hereof to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants and conditions of this Lease to be performed, kept and observed by the other party.

**21. TERMINATION:**

**A. Termination by City for Cause:**

In the event that the Lessee defaults in the performance of any of the terms, provisions, covenants, and agreements on the Lessee's part to be kept, observed, and performed, and such default is not corrected within thirty (30) days after the receipt of notice thereof from the City, or such shorter period as the City may determine is reasonable; or if the Lessee shall abandon, desert, vacate, or remove from the Premises; then, in such event, the Superintendent, at his/her option at any time thereafter, may terminate this Lease together with all of the estate, right, and title thereby granted to or vested in the Lessee, and may re-enter the Premises using such force as may be required. Notwithstanding such re-entry by the City and anything to the contrary in this Lease, the liability of the Lessee for Rent shall not be extinguished for the balance of the term of this Lease, and



## EXHIBIT F NEW LEASES

such Rent shall be immediately due and payable.

### B. Early Termination by City or Lessee:

The City has the right to terminate this Lease at any time with ninety (90) days prior written notice to Lessee whether in order to demolish the Building in anticipation of development of a public park on the Property or for convenience. Lessee has the right to terminate the Lease at any time with ninety (90) days prior written notice to the City in order to move to an acceptable replacement mini-mart site. The City will provide Lessee with relocation assistance and relocation benefits in the event of termination pursuant to the provisions of this subsection.

### 22. SURRENDER OF PREMISES:

At the expiration or termination of this Lease, the Lessee shall quit and surrender the Premises and all keys thereto, without notice and in as good condition as on the Commencement Date, except for ordinary wear and tear; damage or destruction by fire or other casualty or circumstances uncontrollable by the Lessee; and alterations, improvements, and additions made with the approval of the Superintendent unless otherwise agreed as a condition of such approval.

### 23. BINDING EFFECT:

This Lease shall be binding upon the heirs, successors, and assigns of the parties hereto.

### 24. INVALIDITY OF PROVISIONS:

Should any term, provision, condition or other portion of this Lease be held to be inoperative, invalid, or void, the same shall not affect any other term, provision, condition or other portion of this Lease; and the remainder of this Lease shall be effective.

### 25. GOVERNING LAW; VENUE:

This Lease shall be governed under the laws of the State of Washington. Venue for any action under this Lease shall be King County Superior Court.

### 26. EMINENT DOMAIN:

#### A. Taking:

If all or any portion of the Premises or the Building are taken by Eminent Domain, this Lease shall terminate as of the date of the taking and Lessee shall pay all Rent to that date. The term "Eminent Domain" shall include the taking or damaging of property by, through or under any governmental (other than the City) or statutory authority, and any purchase or acquisition in lieu thereof, whether the damaging or taking is by government or any other person.

#### B. Award:

Except as otherwise provided below, the City reserves all right to the entire damage award or payment for any taking by Eminent Domain, and Lessee waives all claim whatsoever against the City for damages for termination of its leasehold interest in the Premises or for interference with its business. Lessee hereby grants and assigns to the City any right Lessee may now have or hereafter acquire to such damages and agrees to execute and deliver such further instruments of assignment as the City, from time to time, may request. Lessee, however, shall have the right to claim from the condemning authority all compensation that may be recoverable by Lessee on account of any loss



**EXHIBIT F NEW LEASES**

incurred by Lessee in moving Lessee's merchandise, furniture, trade fixtures and equipment.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures below:

**THE CITY OF SEATTLE**

By \_\_\_\_\_  
Christopher Williams,  
Acting Superintendent of Parks and  
Recreation

**LESSEE**  
**THE KIM FAMILY REVOCABLE LIVING TRUST,**  
**DATED NOVEMBER 10, 2004, KI SOP KIM AND**  
**WAN S. KIM AS TRUSTEES dba Quick Stop**

By \_\_\_\_\_  
Ki Sop Kim

By \_\_\_\_\_  
Wan S. Kim







EXHIBIT F NEW LEASES  
EXHIBIT A

Legal Description

The west 100 feet of the south ½ of Lot 4 in Block 14 of Osner's Second Addition to Seattle as per plat recorded in Volume 12 of Plats, page 3, records of King County.

EXCEPT portion thereof condemned in King County Superior Court Cause No. 65489 for widening Greenwood Avenue as provided by Ordinance No. 19334 of the City of Seattle.



EXHIBIT F NEW LEASES  
EXHIBIT B

Approximate Location of Premises Within Building



EXHIBIT F NEW LEASES  
ALOHA RAMEN JAPANESE NOODLE  
LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is entered into by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington, as Lessor (hereinafter referred to as the "City"), and LORENZO RANGEL and REIKO RANGEL, a marital community, d.b.a. Aloha Ramen Japanese Noodle, (hereinafter referred to as "Lessee"). As used in this Lease, "Superintendent" means the Superintendent of the City's Department of Parks and Recreation.

WHEREAS, Lessee has been operating Aloha Ramen Japanese Noodle at 8102B Greenwood Avenue North, Seattle, Washington since 2009; and

WHEREAS, the City acquired the real property with street addresses of 8102, 8102B and 8104 Greenwood Avenue North, Seattle, Washington and legally described in Exhibit A attached hereto ("Property") from The Kim Family Revocable Living Trust, dated November 10, 2004, Ki Sop Kim and Wan S. Kim as Trustees ("Former Landlord"), under threat of eminent domain for future development of a public park; and

WHEREAS, the Lessee's lease with the Former Landlord contains the following language in Section 11: "In the event of substantial part of the premises is taken or damaged by the right of eminent domain, or purchased by the Condemner, in lieu thereof, so as to render the remaining premises economically un-tenantable, then this lease, including options and extensions, shall be cancelled as of the time of taking at the option of either party"; and

WHEREAS, Lessee was in Year 3 of a lease with the Former Landlord prior to the City's purchase of the Property; and

WHEREAS, Lessee's lease with the Former Landlord was terminated upon the City's purchase of the Property under threat of eminent domain; and

WHEREAS, Lessee wishes to continue doing business as Aloha Ramen Japanese Noodle on the Property and the City is willing to permit Lessee to operate the business subject to the terms and conditions of this Lease; and

WHEREAS, Lessee is aware that it is possible that the City will terminate this Lease prior to its expiration date; and

WHEREAS, the City is aware that Lessee may wish to terminate the Lease prior to its expiration date to relocate to another restaurant site; NOW THEREFORE, the parties agree as follows:



## EXHIBIT F NEW LEASES

### 1. PREMISES AND COMMON AREA:

The City hereby leases to the Lessee and the Lessee hereby leases from the City the premises commonly known as 8102B Greenwood Avenue North, Seattle, Washington; 98103, consisting of approximately 900 square feet of commercial space (the "Premises"). The Premises are a portion of the building ("Building") on the Property and are depicted on attached Exhibit B. During the Lease Term (defined in Section 3 below), Lessee, its employees and its customers shall have the non-exclusive right to use the public areas of the Property, including the parking lot and walkway/sidewalk in front of the Building (the "Common Areas"), in common with other Building occupants and their respective customers and employees. The City shall at all times have exclusive control and management of the Common Areas and no diminution thereof shall be deemed a constructive or actual eviction or entitle Lessee to compensation or a reduction or abatement of Rent (defined in Section 4 below).

### 2. USE/PURPOSE:

The Premises may be used only for the following use and purpose: Restaurant serving ramen, potstickers, soup, rice, pork, chicken, ice cream, soft drinks, juice, and similar items.

### 3. TERM:

The term of this Lease ("Lease Term") begins \_\_\_\_\_, 20\_\_ ("Commencement Date"), and ends on March 31, 2014. Lessee may extend the term, provided Lessee has not been in default of the lease at any time during the Lease Term; and is hereby granted an option to extend the term of this Lease for a period of Thirty (30) months, commencing April 1, 2014 and ending September 30, 2016. The Lessee must give the City written notice of intent to extend the lease at least One Hundred Twenty (120) days prior to the expiration of the Lease Term hereof.

### 4. RENT:

Lessee shall pay to the City without deduction, offset, prior notice or demand Base Rent and Additional Rent, each as defined below, in lawful money of the United States at Seattle Department of Parks & Recreation; Magnuson Park & Business Resources; 6310 NE 74<sup>th</sup> Street #109E; Seattle, WA 98115; ATTN: Rita Hollomon, or as the City may from time to time otherwise designate in writing. Base Rent and, if appropriate, as reasonably determined by City, Additional Rent shall be prorated on a daily basis for any partial month within the Lease Term, and for any partial initial month in the Lease Term shall be paid on the first day of the Lease Term. "Rent" means Base Rent plus Additional Rent.

#### A. Base Rent:

Commencing on the Commencement Date, Lessee shall pay to the City in advance on the \_\_\_\_\_ day of each month during the Term of this Lease, fixed rent for the Premises according to the following schedule ("Base Rent"):



### EXHIBIT F NEW LEASES

	Rent
-March 31, 2013	\$1,149.00
April 1, 2013-March 31, 2014	\$1,183.47
April 1, 2014 – March 31, 2015	\$1,218.97
April 1, 2015-September 30, 2016	\$1,255.54

**B. Additional Rent:**

All amounts that Lessee is required to pay to the City pursuant to this Lease (other than Base Rent) shall constitute additional rent ("Additional Rent") whether or not designated as Additional Rent. Lessee shall promptly pay to the City all Additional Rent as and when specified in this subsection or elsewhere in this Lease, but if not specified, then within ten (10) days after written demand.

Commencing on the Commencement Date, Lessee shall pay to the City, in advance on the first (1<sup>st</sup>) day of each month during the Term of this Lease, Lessee's estimated share of solid waste (garbage/composting/recycling), sewer and water bills, and King County property tax "Other Charges" (consisting of, but not limited to: noxious weed charge, surface water management fees, and the King Conservation District) for the Property as follows: \$ \_\_\_\_\_. On an annual basis, the City will reconcile Lessee's estimated payments with Lessee's actual share based upon Lessee's liability for forty-five percent (45%) of the sewer and water bill, one-third (1/3) of the solid waste bill, and a pro rata share (23.0%) of the King County property tax "Other Charges" and Lessee shall pay any amounts owing to the City within ten (10) days after written demand. If the estimated payments exceed Lessee's actual share, then Lessee may offset such overpayment against the next monthly estimated payment.

Commencing on the Commencement Date, Lessee shall pay to the City, in advance on the first (1<sup>st</sup>) day of each month during the Term of this Lease, Lessee's estimated share of the cost of maintenance of the Common Areas, graffiti removal from exterior walls, replacement of exterior light bulbs and fixtures and \_\_\_\_\_ as follows: \$ \_\_\_\_\_. On an annual basis, the City will reconcile Lessee's estimated payments with Lessee's actual share based upon Lessee's liability for one-third (1/3) of the costs of maintenance of the Common Areas, graffiti removal from exterior walls, and replacement of exterior light bulbs and fixtures. Lessee shall pay any amounts owing to the City within ten (10) days after written demand. If the estimated payments exceed Lessee's actual share, then Lessee may offset such overpayment against the next monthly estimated payment.

**5. LEASEHOLD EXCISE TAX:**

Lessee shall pay the applicable Leasehold Excise Tax ("LET"), which, as of the commencement of this Lease is 12.84% of Base Rent, which rate is subject to change by the State of Washington. Lessee shall pay LET in advance to Lessor without notice, demand, set-off or deduction, on or before the first (1<sup>st</sup>) day of each month during the Term of this Lease together with the payment of Base Rent.



## EXHIBIT F NEW LEASES

### 6. LATE CHARGE/INTEREST:

If Lessee fails to pay when due any Rent, such amount shall bear interest at a rate of 12% per annum from the date due until the date paid. In addition, any Rent payment received more than five (5) days after its due date will be subject to a \$25.00 late fee.

### 7. SECURITY DEPOSIT:

The City has received from Former Landlord Lessee's security deposit in the amount of \$3,000.00 ("Security Deposit"). The City, at any time, may apply such deposit against any default by the Lessee in the payment of Rent, and, in the event of any such application, shall charge and retain the processing fee to cover the City's administrative expenses in invoicing the Lessee as a consequence of such default. If any portion of the Security Deposit is applied by the City, the Lessee, upon demand, shall immediately deposit additional cash with the City to restore the Security Deposit to its original amount. The City shall return any unused portion of the Security Deposit, without interest, to the Lessee within 30 business days after expiration or earlier termination of this Lease, subject to Lessee's full performance of its obligations under this Lease.

### 8. INSURANCE:

Lessee shall maintain, at its own expense, insurance as specified below and provide the City with copies of the certificates of insurance showing the following coverages are in force:

#### A. Minimum Coverages and Limits of Liability:

##### 1. Commercial General Liability (CGL) Insurance including:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Liability
- Contractual Liability
- Independent Contractors Liability
- Liquor Liability/Host Liquor Liability (if applicable)
- Employers Liability/Stop Gap (only if Worker's Compensation insurance required)
- Fire Damage Legal Liability

with a minimum limit of liability of \$2,000,000 each occurrence combined single limit bodily injury and property damage (CSL), except \$100,000 Fire Damage Legal Liability. The City shall be listed as Additional Insured with primary and noncontributory status on the certificate of insurance. In addition to the certificate of insurance, Lessee shall provide the City with a copy of the Additional Insured endorsement.

- ##### 2. Automobile Liability insurance, including coverage for owned, non-owned, leased or hired vehicles as appropriate with a minimum limit of liability of \$1,000,000 CSL. This requirement may be satisfied with personal lines insurance and primary insurance or any combination of primary and excess/umbrella insurance.



## EXHIBIT F NEW LEASES

3. **Worker's Compensation insurance**, if required to secure Lessee's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. Lessee is not required to provide coverage to individuals exempt from mandatory coverage as described in the Washington State Department of Labor & Industries Employers Guide to Industrial Insurance in Washington State. If the Lessee is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Lessee shall so certify.
4. **Property insurance**, covering Lessee's furniture, trade fixtures, equipment, inventory and tenant improvements on a replacement cost basis against (1) loss from the perils of fire, and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (CP 10 30), and (2) Loss or damage from water damage, or sprinkler systems now or hereafter installed in or on the Premises. Any deductible in excess of \$1,000 shall be disclosed to, and is subject to the approval of, the City.

### B. General Terms and Conditions (Not Applicable to Worker's Compensation):

1. **Additional Insured on Primary and Non-Contributory Basis:**  
Such minimum insurance coverages and limits of liability as provided under items 1 and 2 above shall include the City of Seattle as an additional insured for primary and non-contributory limits of liability. The limits of liability specified are minimums only and shall not be construed to limit the liability of Lessee or any of its insurers to less than the stated limits of liability of each policy. Where the City is an additional insured, it shall have such status for the full limits of liability maintained by Lessee, whether such limits are primary, excess, contingent or otherwise.
2. **Cancellation:**  
Coverage and shall not be reduced or canceled without thirty (30) days prior written notice to the City, except ten (10) days with respect to cancellation for non-payment of premium, unless a longer notice period is required under RCW 48.18.290. In addition, Lessee's insurance shall be primary, as respects the City, and any other insurance maintained by the City shall be excess and not contributing insurance with the Lessee's insurance.
3. **Security of Insurers:**  
All insurers must be licensed to do business in the State of Washington and rated A-: VII or higher in the A.M. Best's Key Rating Guide unless issued as surplus lines under the provisions of RCW 51.
4. **Change in Risk:**  
The City reserves the right to alter minimum coverages and/or limits of liability upon periodical review of the appropriateness of such limits in view of inflation and/or changing industry conditions and to require an increase in such coverages or limits upon ninety (90) days prior written notice.



## EXHIBIT F NEW LEASES

### C. Evidence of Insurance:

Lessee shall procure a certificate of insurance from an insurer or authorized agent/broker that demonstrates compliance with the provisions of this Section 8 that is issued to: The City of Seattle, P.O. Box 94669, Seattle, WA 98124-4669. Such certificate with an attached copy of the CGL additional insured policy provision shall be emailed in PDF format to riskmanagement@seattle.gov and to Seattle Department of Parks & Recreation; Magnuson Park & Business Resources; 6310 NE 74<sup>th</sup> Street; Seattle, WA 98115; ATTN: Rita Hollomon, or to such other party or at such other place as the City may hereinafter designate.

### D. Waiver of Subrogation:

The City and Lessee each waive any claim against the other, or the other's employees or agents, for loss of or damage to (i) any personal property in the Premises, or (ii) the Premises or Building by reason of fire, or any other cause, to the extent such loss or damage is covered by insurance required under the terms of this Lease. This waiver shall apply even though such loss or damage may arise from the negligence of either party, its agents or employees; provided that if the Premises or Building are damaged due to Lessee's negligence, or the negligence of its agents or employees, Lessee shall reimburse the City any out of pocket amount paid under its property insurance deductible. This waiver shall be inapplicable if it would have the effect of invalidating any insurance coverage of the City or the Lessee.

## 9. UTILITIES AND SERVICES:

### A. Utilities:

Lessee shall pay when due to the appropriate providers, all charges for utilities for the Premises, except charges for water, sewer and solid waste (garbage/composting/recycling), which are Additional Rent, and shall be paid as provided in Subsection 4.B. above.

### B. Services:

Lessee shall provide all necessary housekeeping and janitorial services for the Premises at its sole cost and expense using service providers acceptable to the City. Lessee shall pay such providers on a timely basis.

### C. Interruption:

The City shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of utility services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed an eviction of Lessee or to relieve Lessee from any of Lessee's obligations hereunder or to give Lessee a right of action against City for damages. The City has no obligation to provide emergency or backup power to Lessee or the Premises. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Lessee. If utilities are interrupted at the Premises so as to render the Premises unfit for their permitted uses, then the Base Rent shall be abated, on a pro rata basis, for the duration of the disruption.



## EXHIBIT F NEW LEASES

10. **AGREEMENT CONTENTS AND WARRANTY:** This Lease, including Exhibits A and B, which are made a part of this Lease, embodies the entire agreement of the parties with respect to Tenant's lease of the Premises from the City. There are no other understandings or agreements, written or oral, between the parties relating to the subject matter of this Lease, except that certain Tenant Certificate and Agreement executed by Tenant for the benefit of the City, dated \_\_\_\_\_ Tenant warrants to the City that the Tenant Certificate and Agreement was true and correct on the date of termination of Tenant's lease with Former Landlord and that Tenant has no claims against Former Landlord or the City with respect to Tenant's lease with Former Landlord.
11. **EFFECTUATION OF AGREEMENT:** In order to be effective, (1) this Lease must be signed by an authorized representative of the Lessee, (2) the City must have received the Security Deposit and evidence of all required policies of insurance, and (3) this Lease must be signed by the Superintendent pursuant to ordinance authority.
12. **LIABILITY:**
- A. Indemnification:**  
The Lessee shall indemnify and hold the City harmless from any and all claims, costs, suit, penalties, liabilities, or damages resulting from any claimed or actual accident, injury or death to person(s) or damage to property arising out of Lessee's use, occupation or improvement of the Premises, or that of any of its officers, employees, agents, licensees, or invitees. Lessee agrees that the foregoing indemnity specifically covers actions brought by its own employees. As a result, the foregoing indemnity is specifically intended as a waiver of Lessee's immunity under Washington's Industrial Insurance Act, RCW Title 51, but only as to the City and to the extent necessary to provide City with a full and complete indemnity from claims made by Lessee and its employees, to the extent of their negligence. Lessee shall promptly notify City of casualties or accidents occurring in or about the Premises. This indemnity with respect to acts or omissions during the Lease Term shall survive termination or expiration of this Lease for any time period applicable to the limitation of actions. CITY AND LESSEE ACKNOWLEDGE THAT THEY SPECIFICALLY NEGOTIATED AND AGREED UPON THE INDEMNIFICATION PROVISIONS OF THIS SECTION
- B. Assumption of Risk, Release:**  
The placement and storage of personal property on the Premises shall be the responsibility, and at the sole risk, of the Lessee. Lessee releases the City from any and all claims arising from damage to or loss of Lessee's personal property on the Premises.
13. **COMPLIANCE WITH LAW:**
- A. Applicable Law:**  
This Lease shall be construed under and governed by all applicable laws of the United States of America and the State of Washington and the Charter and ordinances of The City of Seattle, as well as all rules and regulations of any such governmental entity.



## EXHIBIT F NEW LEASES

### **B. Licenses, Permits and Taxes:**

The Lessee shall be liable for, and shall pay throughout the term of this Lease, all license and excise fees and occupation taxes covering the business conducted on the Premises, and all taxes on personal property of the Lessee on the Premises and any excise or other taxes on the leasehold interest created by this Lease.

### **C. Equal Employment Opportunity and Nondiscrimination:**

Without limiting the generality of Subsection 13.A., the Lessee shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and The City of Seattle, including but not limited to Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code, as may be amended from time to time, and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

### **D. Permits:**

The Lessee, at no expense to the City, shall obtain any and all building permits, change of use permits, and/or certifications of occupancy from the City as may be required and shall deliver a copy of the same to the Director prior to occupying the Premises.

### **14. NO SUBLEASES OR ASSIGNMENTS; LIMITATIONS ON USE AND PURPOSE:**

The Lessee shall not sublease, assign, or encumber the Premises or any portion or any interest thereof, or engage in any activity with respect to or on the Premises other than for the express uses and purposes stipulated herein, without obtaining the City's prior written approval, which may be withheld in the City's sole discretion.

### **15. USE AND CARE OF THE PREMISES:**

#### **A. General Condition:**

The Lessee shall keep the Premises at all times and at no expense to the City, in a neat, clean, safe and sanitary condition; and shall keep and use the Premises in accordance with the laws of the State of Washington and Charter and ordinances of The City of Seattle, and in accordance with all authorized rules and regulations of the Health Officer, Fire Marshall, Building Inspector and other officers of The City of Seattle. The Lessee shall not permit any waste, damage, or injury to the Premises; use or permit on the Premises anything that will increase the rate of fire insurance thereon; maintain anything on the Premises that may be dangerous to life or limb; overload the floors, permit any objectionable noise or odor to escape or to be emitted from the Premises; permit anything to be done upon the Premises that in any way will tend to create a nuisance or disturb any other tenants of the Building; or use or permit the use of the Premises for lodging or sleeping purposes.



## EXHIBIT F NEW LEASES

### **B. Maintenance and Repairs:**

The Premises have been inspected by both parties, have been continuously occupied by Lessee since 2009 and are accepted by Lessee in their existing condition as of the Commencement Date of this Lease, without reservation. All normal maintenance and repairs to roof, exterior walls and foundations and existing utility connections to and from the Building necessary to maintain the Building in a tenantable condition (except as expressly provided below) shall be done by or under the direction of the City, and at the City's expense, except those caused by the negligence or acts of the Lessee, or the Lessee's officers, employees, agents or invitees, which repairs shall be made at the sole expense of the Lessee. All other maintenance and repairs to the Premises, including, without limitation, the interior of the Premises and exterior windows and doors (including glass replacement), shall be the responsibility of and at the sole expense of the Lessee, except that such maintenance and repairs shall be subject to the prior written approval of and shall be undertaken at the direction of the City.

**C. Alterations:** The Lessee shall not make, or cause to be made, any alteration, addition or improvement in the Premises without first obtaining the written consent of the City for such work and obtaining permits, if required. All alterations, additions and improvements that are made after the signing of this Lease shall be at the sole cost and expense of Lessee, and shall become the property of the City upon the termination or expiration of the Lease, and shall remain in and be surrendered with the Premises as part thereof at the termination of this Lease, without disturbance, molestation or injury. The City reserves an unqualified right to make alterations to the Premises or to the Building (1) where conditions deemed by the Superintendent to constitute an emergency exist; and (2) in order to correct code-deficiencies; and (3) where such alterations do not unreasonably interfere with the ordinary operation of the Premises by the Lessee.

### **D. Access:**

The City reserves for itself, its officers, employees, agents and contractors, free access to the Premises at all reasonable times for the purposes of inspecting, cleaning or making repairs, additions or alterations to the Premises or the Building, but this right shall not be construed as an agreement on the part of the City to make inspections, clean, or make repairs, additions or alterations.

### **E. Signs:**

The Lessee shall not display, inscribe, paint or affix to any part of the Premises any sign except a sign that has been approved, in writing, by the Superintendent, prior to such placement. The City shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises and to show the Premises to prospective tenants during the thirty (30) days prior to the expiration of this Lease.

### **F. Hazardous Substances:**

Lessee shall not, without the City's prior written consent, keep on or about the Premises or Building or Property any substance designated as, or containing any component now or hereafter designated as hazardous, dangerous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance ("Hazardous Substances"), except customary office, kitchen, cleaning and other related supplies in normal quantities handled in compliance with applicable laws. With respect to any Hazardous Substances stored with the City's consent, Lessee shall promptly, timely and



## EXHIBIT F NEW LEASES

completely comply with all governmental requirements for reporting and record keeping; submit to the City true and correct copies of all reports, manifests and identification numbers at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; within five (5) days after the City's request therefor, provide evidence satisfactory to the City of Lessee's compliance with all applicable governmental rules, regulations and requirements; and comply with all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment and disposal of Hazardous Substances. Any and all costs incurred by the City and associated with the City's inspections of the Premises and the City's monitoring of Lessee's compliance with this subsection, including the City's attorneys' fees and costs, shall be Additional Rent and shall be due and payable to City within ten (10) days after the City's demand therefor, if Lessee's violation of this subsection is discovered as a result of such inspection or monitoring. Lessee shall be fully and completely liable to the City for any and all cleanup costs and expenses and any and all other charges, expenses, fees, fines, penalties (both, civil and criminal) and costs imposed with respect to Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises or Building or Property. Lessee shall indemnify, defend and hold City harmless from any and all of the costs, fees, penalties, charges and expenses assessed against, or imposed, upon the City (as well as the City's attorneys' fees and costs) as a result of Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances on or about the Premises or Building or Property. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

### **G. Liens and Encumbrances:**

Lessee shall keep the Premises, Building and Property free and clear of, and shall indemnify, defend and hold City harmless from, any and all, liens and encumbrances arising or growing out of any act or omission, or breach of this Lease or the use, improvement or occupancy of the Premises by Lessee. If any such lien is filed against the Premises or Building or Property, Lessee shall either cause the same to be fully discharged and released of record within ten (10) days after the City's written demand therefor or, within such period, provide the City with cash or other security acceptable to the City in an amount equal to one and one-half (1½) times the amount of the claimed lien as security for its prompt removal. The City shall have the right to disburse such security to cause the removal of the lien if the City deems such necessary, in the City's sole discretion.

### **H. Prohibition Against Installation or Integration of Any Work of Visual Art on Premises Without City's Consent:**

The City reserves to and for itself the right to approve or disapprove of the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration. Lessee shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without the City's prior, express, written consent. The City's consent to the installation of any such art work may be granted, granted upon one or more conditions, or withheld in the City's discretion.



## EXHIBIT F NEW LEASES

### I. Lessee's Indemnification of City Against Liability under Visual Artists Rights Act of 1990:

Lessee shall protect, defend, and hold City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; or (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of Subsection 15.H. of this Lease; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Lessee or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether City or any other person employed by City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

### 16. DAMAGE OR DESTRUCTION:

If the Premises are damaged by fire, earthquake, act of war, or other casualty, the City shall have the option to terminate this Lease. Within forty-eight (48) hours after the happening of any such event, the Lessee shall give the Superintendent notice of such event. The Superintendent shall have thirty (30) days after the Superintendent's receipt of such notification to notify the Lessee, in writing, of the City's intention to repair or rebuild the Premises, or any part so damaged, or to terminate this Lease. If the City elects to rebuild or repair the Premises, the City shall prosecute the work of such repairing or rebuilding without unreasonable delay, in accordance with the then-existing City procedures, and during such period the Base Rent and any Additional Rent under the Lease for the Premises shall be abated in the same ratio that the portion of the Premises rendered for the time being unfit for occupancy bears to the whole of the Premises; upon the completion of such rebuilding or repair, the Lessee shall immediately reoccupy the Premises and pay the full Rent set forth in this Lease.

If the Building, but not the Premises, is damaged by fire, earthquake, act of war, or other casualty, the City shall have the option to terminate this Lease. Within forty-eight (48) hours after the happening of any such event, the Lessee shall give the Superintendent notice of such event. The Superintendent shall have thirty (30) days after the Superintendent's receipt of such notification to notify the Lessee, in writing, of the City's intention to repair or rebuild the Building, or any part so damaged, or to terminate this Lease. If the City elects to rebuild or repair the Building, the City shall prosecute the work of such repairing or rebuilding without unreasonable delay, in accordance with the then-existing City procedures, and during such period the Base Rent and any Additional Rent under the Lease for the Premises shall not be abated unless the parties mutually determine that it is not feasible for Lessee to operate Lessee's business during such repairing or rebuilding, in which case Base Rent and Additional Rent will be abated until the repairing or rebuilding is complete. Upon the completion of such rebuilding or repair, the Lessee shall immediately reoccupy the Premises and pay the full Rent set forth in this Lease.

If the Building is destroyed, then either party shall have the option of terminating this Lease.



## EXHIBIT F NEW LEASES

Under this Section 16, to terminate this Lease a party must provide thirty (30) days' prior written notice of termination to the other. Notwithstanding any other provision of this Lease, no party to this Lease shall be liable in damages to any other party for terminating this Lease, in accordance with the provisions of this section, because of the damage to or destruction of the Premises or the Building.

**17. NOTICES:**

Any notice to be given by either party to the other shall be in writing and may either be delivered, personally, or may be deposited in the United States mail, postage prepaid, as either certified or regular mail, addressed to:

City:

Seattle Department of Parks & Recreation  
Magnuson Park & Business Resources  
6310 NE 74<sup>th</sup> Street #109E  
Seattle, WA 98115  
ATTN: Rita Hollomon

Lessee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to such other respective addresses as either party may, from time to time, designate in writing.

**18. RELATIONSHIP:**

In no event shall the City be construed or held to have become in any way or for any purpose a partner, associate, or joint venturer of the Lessee or any party associated with the Lessee in the conduct of the Lessee's business or otherwise. This Lease does not make the Lessee the agent or legal representative of the City for any purpose whatsoever.

**19. AMENDMENTS:**

The parties hereto especially reserve the right to renegotiate and change the provisions of this Lease, from time to time, as may be necessary. No alteration or modification of the terms or conditions of this Lease shall be valid and binding unless made in writing and signed by the authorized representatives of the parties hereto.

**20. NO WAIVER OF DEFAULT:**

The City does not waive full compliance with the terms and conditions of this Lease by acceptance of Rent. No waiver of default by either party of any of the terms, covenants, and conditions hereof to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants and conditions of this Lease to be performed, kept and observed by the other party.



## EXHIBIT F NEW LEASES

### 21. TERMINATION:

#### A. Termination by City for Cause:

In the event that the Lessee defaults in the performance of any of the terms, provisions, covenants, and agreements on the Lessee's part to be kept, observed, and performed, and such default is not corrected within thirty (30) days after the receipt of notice thereof from the City, or such shorter period as the City may determine is reasonable; or if the Lessee shall abandon, desert, vacate, or remove from the Premises; then, in such event, the Superintendent, at his/her option at any time thereafter, may terminate this Lease together with all of the estate, right, and title thereby granted to or vested in the Lessee, and may re-enter the Premises using such force as may be required. Notwithstanding such re-entry by the City and anything to the contrary in this Lease, the liability of the Lessee for Rent shall not be extinguished for the balance of the term of this Lease, and such Rent shall be immediately due and payable.

#### B. Early Termination by City or Lessee:

The City has the right to terminate this Lease at any time with ninety (90) days prior written notice to Lessee whether in order to demolish the Building in anticipation of development of a public park on the Property or for convenience. Lessee has the right to terminate the Lease at any time with ninety (90) days prior written notice to the City in order to move to an acceptable replacement restaurant site. The City will provide Lessee with relocation assistance and relocation benefits in the event of termination pursuant to the provisions of this subsection.

### 22. SURRENDER OF PREMISES:

At the expiration or termination of this Lease, the Lessee shall quit and surrender the Premises and all keys thereto, without notice and in as good condition as on the Commencement Date, except for ordinary wear and tear; damage or destruction by fire or other casualty or circumstances uncontrollable by the Lessee; and alterations, improvements, and additions made with the approval of the Superintendent unless otherwise agreed as a condition of such approval.

### 23. BINDING EFFECT:

This Lease shall be binding upon the heirs, successors, and assigns of the parties hereto.

### 24. INVALIDITY OF PROVISIONS:

Should any term, provision, condition or other portion of this Lease be held to be inoperative, invalid, or void, the same shall not affect any other term, provision, condition or other portion of this Lease; and the remainder of this Lease shall be effective.

### 25. GOVERNING LAW; VENUE:

This Lease shall be governed under the laws of the State of Washington. Venue for any action under this Lease shall be King County Superior Court.



EXHIBIT F NEW LEASES

26. EMINENT DOMAIN:

A. Taking:

If all or any portion of the Premises or the Building are taken by Eminent Domain, this Lease shall terminate as of the date of the taking and Lessee shall pay all Rent to that date. The term "Eminent Domain" shall include the taking or damaging of property by, through or under any governmental (other than the City) or statutory authority, and any purchase or acquisition in lieu thereof, whether the damaging or taking is by government or any other person.

B. Award:

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

IN WITNESS WHEREOF, the parties hereto have affixed their signatures below:

THE CITY OF SEATTLE

LESSEE

By \_\_\_\_\_  
Lorenzo Rangel, dba Aloha Ramen Japanese  
Noodle

By \_\_\_\_\_  
Christopher Williams,  
Acting Superintendent of Parks and  
Recreation

By \_\_\_\_\_  
Reiko Rangel, dba Aloha Ramen  
Japanese Noodle







EXHIBIT F NEW LEASES  
EXHIBIT A

Legal Description

The west 100 feet of the south ½ of Lot 4 in Block 14 of Osner's Second Addition to Seattle as per plat recorded in Volume 12 of Plats, page 3, records of King County.

EXCEPT portion thereof condemned in King County Superior Court Cause No. 65489 for widening Greenwood Avenue as provided by Ordinance No. 19334 of the City of Seattle.



EXHIBIT F NEW LEASES  
EXHIBIT B

Approximate Location of Premises Within Building

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## MANNA TERIYAKI LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is entered into by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington, as Lessor (hereinafter referred to as the "City"), and IL JUNG CHONG and \_\_\_\_\_, a marital community, d.b.a. Manna Teriyaki, (hereinafter referred to as "Lessee"). As used in this Lease, "Superintendent" means the Superintendent of the City's Department of Parks and Recreation.

WHEREAS, Lessee has been operating Manna Teriyaki at 8104 Greenwood Avenue North, Seattle, Washington since 2006; and

WHEREAS, the City acquired the real property with street addresses of 8100, 8102 and 8104 Greenwood Avenue North, Seattle, Washington and legally described in Exhibit A attached hereto ("Property") from The Kim Family Revocable Living Trust, dated November 10, 2004, Ki Sop Kim, and Wan S. Kim as Trustees ("Former Landlord"), under threat of eminent domain for future development of a public park; and

WHEREAS, the Lessee's lease with the Former Landlord contains the following language in Section 11: "In the event of substantial part of the premises is taken or damaged by the right of eminent domain, or purchased by the Condemner, in lieu thereof, so as to render the remaining premises economically un-tenantable, then this lease, including options and extensions, shall be cancelled as of the time of taking at the option of either party"; and

WHEREAS, Lessee had exercised a five-year option to renew its lease with the Former Landlord prior to the City's purchase of the Property; and

WHEREAS, Lessee's lease with the Former Landlord was terminated upon the City's purchase of the Property under threat of eminent domain; and

WHEREAS, Lessee wishes to continue doing business as Manna Teriyaki on the Property and the City is willing to permit Lessee to operate the business subject to the terms and conditions of this Lease; and

WHEREAS, Lessee is aware that it is possible that the City will terminate this Lease prior to its expiration date; and

WHEREAS, the City is aware that Lessee may wish to terminate the Lease prior to its expiration date to relocate to another restaurant site; NOW THEREFORE, the parties agree as follows:



**1. PREMISES AND COMMON AREA:**

The City hereby leases to the Lessee and the Lessee hereby leases from the City the premises commonly known as 8104 Greenwood Avenue North, Seattle, Washington; 98103, consisting of approximately 1,350 square feet of commercial space (the "Premises"). The Premises are a portion of the building ("Building") on the Property and are depicted on attached Exhibit B. During the Lease Term (defined in Section 3 below), Lessee, its employees and its customers shall have the non-exclusive right to use the public areas of the Property, including the parking lot and walkway/sidewalk in front of the Building (the "Common Areas"), in common with other Building occupants and their respective customers and employees. The City shall at all times have exclusive control and management of the Common Areas and no diminution thereof shall be deemed a constructive or actual eviction or entitle Lessee to compensation or a reduction or abatement of Rent (defined in Section 4 below).

**2. USE/PURPOSE:**

The Premises may be used only for the following use and purpose: Restaurant serving fried rice, french fries, chicken curry, chow mein, hamburgers, coleslaw, grilled chicken, orange chicken, cheeseburger, sticky rice, chicken teriyaki, mongolian beef, shrimp fried rice, wonton soup, short ribs, and similar items.

**3. TERM:**

The term of this Lease ("Lease Term") begins \_\_\_\_\_, 2011 ("Commencement Date"), and ends on \_\_\_\_\_, 2016.

**4. RENT:**

Lessee shall pay to the City without deduction, offset, prior notice or demand Base Rent and Additional Rent, each as defined below, in lawful money of the United States at Seattle Department of Parks & Recreation; Magnuson Park & Business Resources; 6310 NE 74<sup>th</sup> Street #109E; Seattle, WA 98115; ATTN: Rita Hollomon, or as the City may from time to time otherwise designate in writing. Base Rent and, if appropriate, as reasonably determined by City, Additional Rent shall be prorated on a daily basis for any partial month within the Lease Term, and for any partial initial month in the Lease Term shall be paid on the first day of the Lease Term. "Rent" means Base Rent plus Additional Rent.

**A. Base Rent:**

Commencing on the Commencement Date, Lessee shall pay to the City in advance on the \_\_\_\_\_ day of each month during the Term of this Lease, fixed rent for the Premises according to the following schedule ("Base Rent"):

	Rent
Months 1 – 12	\$1,627.00
Months 13 – 24	\$1,675.81
Months 25 – 36	\$1,726.08
Months 37 - 48	\$1,777.86
Months 49 - 60	\$1,831.20



**B. Additional Rent:**

All amounts that Lessee is required to pay to the City pursuant to this Lease (other than Base Rent) shall constitute additional rent ("Additional Rent") whether or not designated as Additional Rent. Lessee shall promptly pay to the City all Additional Rent as and when specified in this subsection or elsewhere in this Lease, but if not specified, then within ten (10) days after written demand.

Commencing on the Commencement Date, Lessee shall pay to the City, in advance on the first (1<sup>st</sup>) day of each month during the Term of this Lease, Lessee's estimated share of solid waste (garbage/composting/recycling), sewer and water bills, and King County property tax "Other Charges" (consisting of, but not limited to: noxious weed charge, surface water management fees, and the King Conservation District) for the Property as follows: \$\_\_\_\_\_. On an annual basis, the City will reconcile Lessee's estimated payments with Lessee's actual share based upon Lessee's liability for forty-five percent (45%) of the sewer and water bill, one-third (1/3) of the solid waste bill, and a pro rata share (34.40%) of the King County property tax "Other Charges" and Lessee shall pay any amounts owing to the City within ten (10) days after written demand. If the estimated payments exceed Lessee's actual share, then Lessee may offset such overpayment against the next monthly estimated payment.

Commencing on the Commencement Date, Lessee shall pay to the City, in advance on the first (1<sup>st</sup>) day of each month during the Term of this Lease, Lessee's estimated share of the cost of maintenance of the Common Areas, graffiti removal from exterior walls, replacement of exterior light bulbs and fixtures and \_\_\_\_\_ as follows: \$\_\_\_\_\_. On an annual basis, the City will reconcile Lessee's estimated payments with Lessee's actual share based upon Lessee's liability for one-third (1/3) of the costs of maintenance of the Common Areas, graffiti removal from exterior walls, and replacement of exterior light bulbs and fixtures. Lessee shall pay any amounts owing to the City within ten (10) days after written demand. If the estimated payments exceed Lessee's actual share, then Lessee may offset such overpayment against the next monthly estimated payment.

**5. LEASEHOLD EXCISE TAX:**

Lessee shall pay the applicable Leasehold Excise Tax ("LET"), which, as of the commencement of this Lease is 12.84% of Base Rent, which rate is subject to change by the State of Washington. Lessee shall pay LET in advance to Lessor without notice, demand, set-off or deduction, on or before the \_\_\_ day of each month during the Term of this Lease together with the payment of Base Rent.

**6. LATE CHARGE/INTEREST:**

If Lessee fails to pay when due any Rent, such amount shall bear interest at a rate of 12% per annum from the date due until the date paid. In addition, any Rent payment received more than five (5) days after its due date will be subject to a \$25.00 late fee.

**7. SECURITY DEPOSIT:**

The City has received from Former Landlord Lessee's security deposit in the amount of \$3,000.00 ("Security Deposit"). The City, at any time, may apply such deposit against any default by the Lessee in the payment of Rent, and, in the event of any such application,



shall charge and retain the processing fee to cover the City's administrative expenses in invoicing the Lessee as a consequence of such default. If any portion of the Security Deposit is applied by the City, the Lessee, upon demand, shall immediately deposit additional cash with the City to restore the Security Deposit to its original amount. The City shall return any unused portion of the Security Deposit, without interest, to the Lessee within 30 business days after expiration or earlier termination of this Lease, subject to Lessee's full performance of its obligations under this Lease.

## 8. INSURANCE:

Lessee shall maintain, at its own expense, insurance as specified below and provide the City with copies of the certificates of insurance showing the following coverages are in force:

### A. Minimum Coverages and Limits of Liability:

#### 1. Commercial General Liability (CGL) Insurance including:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Liability
- Contractual Liability
- Independent Contractors Liability
- Liquor Liability/Host Liquor Liability (if applicable)
- Employers Liability/Stop Gap (only if Worker's Compensation insurance required)
- Fire Damage Legal Liability

with a minimum limit of liability of \$2,000,000 each occurrence combined single limit bodily injury and property damage (CSL), except \$100,000 Fire Damage Legal Liability. The City shall be listed as Additional Insured with primary and noncontributory status on the certificate of insurance. In addition to the certificate of insurance, Lessee shall provide the City with a copy of the Additional Insured endorsement.

2. **Automobile Liability Insurance**, including coverage for owned, non-owned, leased or hired vehicles as appropriate with a minimum limit of liability of \$1,000,000 CSL. This requirement may be satisfied with personal lines insurance and primary insurance or any combination of primary and excess/umbrella insurance.
3. **Worker's Compensation insurance**, if required to secure Lessee's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. Lessee is not required to provide coverage to individuals exempt from mandatory coverage as described in the Washington State Department of Labor & Industries Employers Guide to Industrial Insurance in Washington State. If the Lessee is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Lessee shall so certify.
4. **Property insurance**, covering Lessee's furniture, trade fixtures, equipment, inventory and tenant improvements on a replacement cost basis against (1) loss from the perils of fire, and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (CP



10 30), and (2) Loss or damage from water damage, or sprinkler systems now or hereafter installed in or on the Premises. Any deductible in excess of \$1,000 shall be disclosed to, and is subject to the approval of, the City.

**B. General Terms and Conditions (Not Applicable to Worker's Compensation):**

**1. Additional Insured on Primary and Non-Contributory Basis:**

Such minimum insurance coverages and limits of liability as provided under items 1 and 2 above shall include the City of Seattle as an additional insured for primary and non-contributory limits of liability. The limits of liability specified are minimums only and shall not be construed to limit the liability of Lessee or any of its insurers to less than the stated limits of liability of each policy. Where the City is an additional insured, it shall have such status for the full limits of liability maintained by Lessee, whether such limits are primary, excess, contingent or otherwise.

**2. Cancellation:**

Coverage and shall not be reduced or canceled without thirty (30) days prior written notice to the City, except ten (10) days with respect to cancellation for non-payment of premium, unless a longer notice period is required under RCW 48.18.290. In addition, Lessee's insurance shall be primary, as respects the City, and any other insurance maintained by the City shall be excess and not contributing insurance with the Lessee's insurance.

**3. Security of Insurers:**

All insurers must be licensed to do business in the State of Washington and rated A- VII or higher in the A.M. Best's Key Rating Guide unless issued as surplus lines under the provisions of RCW 51.

**4. Change in Risk:**

The City reserves the right to alter minimum coverages and/or limits of liability upon periodical review of the appropriateness of such limits in view of inflation and/or changing industry conditions and to require an increase in such coverages or limits upon ninety (90) days prior written notice.

**C. Evidence of Insurance:**

Lessee shall procure a certificate of insurance from an insurer or authorized agent/broker that demonstrates compliance with the provisions of this Section 8 that is issued to: The City of Seattle, P.O. Box 94669, Seattle, WA 98124-4669. Such certificate with an attached copy of the CGL additional insured policy provision shall be emailed in PDF format to [riskmanagement@seattle.gov](mailto:riskmanagement@seattle.gov) and to Seattle Department of Parks & Recreation, Magnuson Park & Business Resources, 6310 NE 74<sup>th</sup> Street, Seattle, WA 98115; ATTN: Rita Hollomon, or to such other party or at such other place as the City may hereinafter designate.

**D. City-Furnished Property Insurance:**

The City shall maintain at all times and at its own expense all risk property insurance or self-insurance covering the building, excluding Lessee's furniture, trade fixtures, equipment, inventory and tenant improvements.



**E. Waiver of Subrogation:**

The City and Lessee each waive any claim against the other, or the other's employees or agents, for loss of or damage to (i) any personal property in the Premises, or (ii) the Premises or Building by reason of fire, or any other cause, to the extent such loss or damage is covered by insurance required under the terms of this Lease. This waiver shall apply even though such loss or damage may arise from the negligence of either party, its agents or employees; provided that if the Premises or Building are damaged due to Lessee's negligence, or the negligence of its agents or employees, Lessee shall reimburse the City any out of pocket amount paid under its property insurance deductible. This waiver shall be inapplicable if it would have the effect of invalidating any insurance coverage of the City or the Lessee.

**9. UTILITIES AND SERVICES:**

**A. Utilities:**

Lessee shall pay when due to the appropriate providers, all charges for utilities for the Premises, except charges for water, sewer and solid waste (garbage/composting/recycling), which are Additional Rent, and shall be paid as provided in Subsection 4.B. above.

**B. Services:**

Lessee shall provide all necessary housekeeping and janitorial services for the Premises at its sole cost and expense using service providers acceptable to the City. Lessee shall pay such providers on a timely basis.

**C. Interruption:**

The City shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of utility services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed an eviction of Lessee or to relieve Lessee from any of Lessee's obligations hereunder or to give Lessee a right of action against City for damages. The City has no obligation to provide emergency or backup power to Lessee or the Premises. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Lessee. If utilities are interrupted at the Premises so as to render the Premises unfit for their permitted uses, then the Base Rent shall be abated, on a pro rata basis, for the duration of the disruption.

- 10. AGREEMENT CONTENTS AND WARRANTY:** This Lease, including Exhibits A and B, which are made a part of this Lease, embodies the entire agreement of the parties with respect to Tenant's lease of the Premises from the City. There are no other understandings or agreements, written or oral, between the parties relating to the subject matter of this Lease, except that certain Tenant Certificate and Agreement executed by Tenant for the benefit of the City, dated [REDACTED]. Tenant warrants to the City that the Tenant Certificate and Agreement was true and correct on the date of termination of Tenant's lease with Former Landlord and that Tenant has no claims against Former Landlord or the City with respect to Tenant's lease with Former Landlord.



11. **EFFECTUATION OF AGREEMENT:** In order to be effective, (1) this Lease must be signed by an authorized representative of the Lessee, (2) the City must have received the Security Deposit and evidence of all required policies of insurance, and (3) this Lease must be signed by the Superintendent pursuant to ordinance authority.

12. **LIABILITY:**

**A. Indemnification:**

The Lessee shall indemnify and hold the City harmless from any and all claims, costs, suit, penalties, liabilities, or damages resulting from any claimed or actual accident, injury or death to person(s) or damage to property arising out of Lessee's use, occupation or improvement of the Premises, or that of any of its officers, employees, agents, licensees, or invitees. Lessee agrees that the foregoing indemnity specifically covers actions brought by its own employees. As a result, the foregoing indemnity is specifically intended as a waiver of Lessee's immunity under Washington's Industrial Insurance Act, RCW Title 51, but only as to the City and to the extent necessary to provide City with a full and complete indemnity from claims made by Lessee and its employees, to the extent of their negligence. Lessee shall promptly notify City of casualties or accidents occurring in or about the Premises. This indemnity with respect to acts or omissions during the Lease Term shall survive termination or expiration of this Lease for any time period applicable to the limitation of actions. CITY AND LESSEE ACKNOWLEDGE THAT THEY SPECIFICALLY NEGOTIATED AND AGREED UPON THE INDEMNIFICATION PROVISIONS OF THIS SECTION

**B. Assumption of Risk, Release:**

The placement and storage of personal property on the Premises shall be the responsibility, and at the sole risk, of the Lessee. Lessee releases the City from any and all claims arising from damage to or loss of Lessee's personal property on the Premises.

13. **COMPLIANCE WITH LAW:**

**A. Applicable Law:**

This Lease shall be construed under and governed by all applicable laws of the United States of America and the State of Washington and the Charter and ordinances of The City of Seattle, as well as all rules and regulations of any such governmental entity.

**B. Licenses, Permits and Taxes:**

The Lessee shall be liable for, and shall pay throughout the term of this Lease, all license and excise fees and occupation taxes covering the business conducted on the Premises, and all taxes on personal property of the Lessee on the Premises and any excise or other taxes on the leasehold interest created by this Lease.

**C. Equal Employment Opportunity and Nondiscrimination:**

Without limiting the generality of Subsection 13.A., the Lessee shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and The City of Seattle, including but not limited to Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code, as may be amended



from time to time, and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

**D. Permits:**

The Lessee, at no expense to the City, shall obtain any and all building permits, change of use permits, and/or certifications of occupancy from the City as may be required and shall deliver a copy of the same to the Director prior to occupying the Premises.

**14. NO SUBLEASES OR ASSIGNMENTS; LIMITATIONS ON USE AND PURPOSE:**

The Lessee shall not sublease, assign, or encumber the Premises or any portion or any interest thereof, or engage in any activity with respect to or on the Premises other than for the express uses and purposes stipulated herein, without obtaining the City's prior written approval, which may be withheld in the City's sole discretion.

**15. USE AND CARE OF THE PREMISES:**

**A. General Condition:**

The Lessee shall keep the Premises at all times and at no expense to the City, in a neat, clean, safe and sanitary condition; and shall keep and use the Premises in accordance with the laws of the State of Washington and Charter and ordinances of The City of Seattle, and in accordance with all authorized rules and regulations of the Health Officer, Fire Marshall, Building Inspector and other officers of The City of Seattle. The Lessee shall not permit any waste, damage, or injury to the Premises; use or permit on the Premises anything that will increase the rate of fire insurance thereon; maintain anything on the Premises that may be dangerous to life or limb; overload the floors, permit any objectionable noise or odor to escape or to be emitted from the Premises; permit anything to be done upon the Premises that in any way will tend to create a nuisance or disturb any other tenants of the Building; or use or permit the use of the Premises for lodging or sleeping purposes.

**B. Maintenance and Repairs:**

The Premises have been inspected by both parties, have been continuously occupied by Lessee since 2006 and are accepted by Lessee in their existing condition as of the Commencement Date of this Lease, without reservation. All normal maintenance and repairs to roof, exterior walls and foundations and existing utility connections to and from the Building necessary to maintain the Building in a tenantable condition (except as expressly provided below) shall be done by or under the direction of the City, and at the City's expense, except those caused by the negligence or acts of the Lessee, or the Lessee's officers, employees, agents or invitees, which repairs shall be made at the sole expense of the Lessee. All other maintenance and repairs to the Premises, including, without limitation, the interior of the Premises and exterior windows and doors (including glass replacement), shall be the responsibility of and at the sole expense of the Lessee, except that such maintenance and repairs shall be subject to the prior written approval of and shall be undertaken at the direction of the City.



**C. Alterations:** The Lessee shall not make, or cause to be made, any alteration, addition or improvement in the Premises without first obtaining the written consent of the City for such work and obtaining permits, if required. All alterations, additions and improvements that are made after the signing of this Lease shall be at the sole cost and expense of Lessee, and shall become the property of the City upon the termination or expiration of the Lease, and shall remain in and be surrendered with the Premises as part thereof at the termination of this Lease, without disturbance, molestation or injury. The City reserves an unqualified right to make alterations to the Premises or to the Building (1) where conditions deemed by the Superintendent to constitute an emergency exist; and (2) in order to correct code-deficiencies; and (3) where such alterations do not unreasonably interfere with the ordinary operation of the Premises by the Lessee.

**D. Access:**

The City reserves for itself, its officers, employees, agents and contractors, free access to the Premises at all reasonable times for the purposes of inspecting, cleaning or making repairs, additions or alterations to the Premises or the Building, but this right shall not be construed as an agreement on the part of the City to make inspections, clean, or make repairs, additions or alterations.

**E. Signs:**

The Lessee shall not display, inscribe, paint or affix to any part of the Premises any sign except a sign that has been approved, in writing, by the Superintendent, prior to such placement. The City shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises and to show the Premises to prospective tenants during the thirty (30) days prior to the expiration of this Lease.

**F. Hazardous Substances:**

Lessee shall not, without the City's prior written consent, keep on or about the Premises or Building or Property any substance designated as, or containing any component now or hereafter designated as hazardous, dangerous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance ("Hazardous Substances"), except customary office, kitchen, cleaning and other related supplies in normal quantities handled in compliance with applicable laws. With respect to any Hazardous Substances stored with the City's consent, Lessee shall promptly, timely and completely comply with all governmental requirements for reporting and record keeping; submit to the City true and correct copies of all reports, manifests and identification numbers at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; within five (5) days after the City's request therefor, provide evidence satisfactory to the City of Lessee's compliance with all applicable governmental rules, regulations and requirements; and comply with all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment and disposal of Hazardous Substances. Any and all costs incurred by the City and associated with the City's inspections of the Premises and the City's monitoring of Lessee's compliance with this subsection, including the City's attorneys' fees and costs, shall be Additional Rent and shall be due and payable to City within ten (10) days after the City's demand therefor, if Lessee's violation of this subsection is discovered as a result of such inspection or monitoring. Lessee shall be fully and completely liable to the City for any and all cleanup costs and expenses and any and all other charges, expenses, fees, fines, penalties (both, civil and criminal) and costs imposed with respect to Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises or Building or



Property. Lessee shall indemnify, defend and hold City harmless from any and all of the costs, fees, penalties, charges and expenses assessed against, or imposed, upon the City (as well as the City's attorneys' fees and costs) as a result of Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances on or about the Premises or Building or Property. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

**G. Liens and Encumbrances:**

Lessee shall keep the Premises, Building and Property free and clear of, and shall indemnify, defend and hold City harmless from, any and all, liens and encumbrances arising or growing out of any act or omission, or breach of this Lease or the use, improvement or occupancy of the Premises by Lessee. If any such lien is filed against the Premises or Building or Property, Lessee shall either cause the same to be fully discharged and released of record within ten (10) days after the City's written demand therefor or, within such period, provide the City with cash or other security acceptable to the City in an amount equal to one and one-half (1½) times the amount of the claimed lien as security for its prompt removal. The City shall have the right to disburse such security to cause the removal of the lien if the City deems such necessary, in the City's sole discretion.

**H. Prohibition Against Installation or Integration of Any Work of Visual Art on Premises Without City's Consent:**

The City reserves to and for itself the right to approve or disapprove of the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration. Lessee shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without the City's prior, express, written consent. The City's consent to the installation of any such art work may be granted, granted upon one or more conditions, or withheld in the City's discretion.

**I. Lessee's Indemnification of City Against Liability under Visual Artists Rights Act of 1990:**

Lessee shall protect, defend, and hold City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; or (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of Subsection 15.H. of this Lease; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Lessee or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether City or any other person employed by City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

**16. DAMAGE OR DESTRUCTION:**

If the Premises are damaged by fire, earthquake, act of war, or other casualty, the City shall have the option to terminate this Lease. Within forty-eight (48) hours after the happening of any such event, the Lessee shall give the Superintendent notice of such



event. The Superintendent shall have thirty (30) days after the Superintendent's receipt of such notification to notify the Lessee, in writing, of the City's intention to repair or rebuild the Premises, or any part so damaged, or to terminate this Lease. If the City elects to rebuild or repair the Premises, the City shall prosecute the work of such repairing or rebuilding without unreasonable delay, in accordance with the then-existing City procedures, and during such period the Base Rent and any Additional Rent under the Lease for the Premises shall be abated in the same ratio that the portion of the Premises rendered for the time being unfit for occupancy bears to the whole of the Premises; upon the completion of such rebuilding or repair, the Lessee shall immediately reoccupy the Premises and pay the full Rent set forth in this Lease.

If the Building, but not the Premises, is damaged by fire, earthquake, act of war, or other casualty, the City shall have the option to terminate this Lease. Within forty-eight (48) hours after the happening of any such event, the Lessee shall give the Superintendent notice of such event. The Superintendent shall have thirty (30) days after the Superintendent's receipt of such notification to notify the Lessee, in writing, of the City's intention to repair or rebuild the Building, or any part so damaged, or to terminate this Lease. If the City elects to rebuild or repair the Building, the City shall prosecute the work of such repairing or rebuilding without unreasonable delay, in accordance with the then-existing City procedures, and during such period the Base Rent and any Additional Rent under the Lease for the Premises shall not be abated unless the parties mutually determine that it is not feasible for Lessee to operate Lessee's business during such repairing or rebuilding, in which case Base Rent and Additional Rent will be abated until the repairing or rebuilding is complete. Upon the completion of such rebuilding or repair, the Lessee shall immediately reoccupy the Premises and pay the full Rent set forth in this Lease.

If the Building is destroyed, then either party shall have the option of terminating this Lease.

Under this Section 16, to terminate this Lease a party must provide thirty (30) days' prior written notice of termination to the other. Notwithstanding any other provision of this Lease, no party to this Lease shall be liable in damages to any other party for terminating this Lease, in accordance with the provisions of this section, because of the damage to or destruction of the Premises or the Building.

**17. NOTICES:**

Any notice to be given by either party to the other shall be in writing and may either be delivered, personally, or may be deposited in the United States mail, postage prepaid, as either certified or regular mail, addressed to:

City:

Seattle Department of Parks & Recreation  
Magnuson Park & Business Resources  
6310 NE 74<sup>th</sup> Street #109E  
Seattle, WA 98115  
ATTN: Rita Hollomon

Lessee:

Manna Teriyaki Lease  
8104 Greenwood Avenue North

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or to such other respective addresses as either party may, from time to time, designate in writing.

**18. RELATIONSHIP:**

In no event shall the City be construed or held to have become in any way or for any purpose a partner, associate, or joint venturer of the Lessee or any party associated with the Lessee in the conduct of the Lessee's business or otherwise. This Lease does not make the Lessee the agent or legal representative of the City for any purpose whatsoever.

**19. AMENDMENTS:**

The parties hereto especially reserve the right to renegotiate and change the provisions of this Lease, from time to time, as may be necessary. No alteration or modification of the terms or conditions of this Lease shall be valid and binding unless made in writing and signed by the authorized representatives of the parties hereto.

**20. NO WAIVER OF DEFAULT:**

The City does not waive full compliance with the terms and conditions of this Lease by acceptance of Rent. No waiver of default by either party of any of the terms, covenants, and conditions hereof to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants and conditions of this Lease to be performed, kept and observed by the other party.

**21. TERMINATION:**

**A. Termination by City for Cause:**

In the event that the Lessee defaults in the performance of any of the terms, provisions, covenants, and agreements on the Lessee's part to be kept, observed, and performed, and such default is not corrected within thirty (30) days after the receipt of notice thereof from the City, or such shorter period as the City may determine is reasonable, or if the Lessee shall abandon, desert, vacate, or remove from the Premises; then, in such event, the Superintendent, at his/her option at any time thereafter, may terminate this Lease together with all of the estate, right, and title thereby granted to or vested in the Lessee, and may re-enter the Premises using such force as may be required. Notwithstanding such re-entry by the City and anything to the contrary in this Lease, the liability of the Lessee for Rent shall not be extinguished for the balance of the term of this Lease, and such Rent shall be immediately due and payable.

**B. Early Termination by City or Lessee:**

The City has the right to terminate this Lease at any time with ninety (90) days prior written notice to Lessee whether in order to demolish the Building in anticipation of development of a public park on the Property or for convenience. Lessee has the right to terminate the Lease at any time with ninety (90) days prior written notice to the City in order to move to an acceptable replacement restaurant site. The City will provide Lessee with relocation assistance and relocation benefits in the event of termination pursuant to the provisions of this subsection.



**22. SURRENDER OF PREMISES:**

At the expiration or termination of this Lease, the Lessee shall quit and surrender the Premises and all keys thereto, without notice and in as good condition as on the Commencement Date, except for ordinary wear and tear; damage or destruction by fire or other casualty or circumstances uncontrollable by the Lessee; and alterations, improvements, and additions made with the approval of the Superintendent unless otherwise agreed as a condition of such approval.

**23. BINDING EFFECT:**

This Lease shall be binding upon the heirs, successors, and assigns of the parties hereto.

**24. INVALIDITY OF PROVISIONS:**

Should any term, provision, condition or other portion of this Lease be held to be inoperative, invalid, or void, the same shall not affect any other term, provision, condition or other portion of this Lease; and the remainder of this Lease shall be effective.

**25. GOVERNING LAW; VENUE:**

This Lease shall be governed under the laws of the State of Washington. Venue for any action under this Lease shall be King County Superior Court.

**26. EMINENT DOMAIN:**

**A. Taking:**

If all or any portion of the Premises or the Building are taken by Eminent Domain, this Lease shall terminate as of the date of the taking and Lessee shall pay all Rent to that date. The term "Eminent Domain" shall include the taking or damaging of property by, through or under any governmental (other than the City) or statutory authority, and any purchase or acquisition in lieu thereof, whether the damaging or taking is by government or any other person.

**B. Award:**

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







EXHIBIT A

Legal Description

The west 100 feet of the south ½ of Lot 4 in Block 14 of Osner's Second Addition to Seattle as per plat recorded in Volume 12 of Plats, page 3, records of King County.

EXCEPT portion thereof condemned in King County Superior Court Cause No. 65489 for widening Greenwood Avenue as provided by Ordinance No. 19334 of the City of Seattle.



EXHIBIT B

Approximate Location of Premises Within Building





**FISCAL NOTE FOR CAPITAL PROJECTS ONLY**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
Parks and Recreation	Donald Harris/684-8018	Amy Williams/233-2651

**Legislation Title:** AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the acquisition of real property commonly known as 8102, 8102A, and 8104 Greenwood Avenue North; authorizing acceptance and recording of the deed for open space, park, and recreation purposes; authorizing temporary commercial leasing of the real property; authorizing acquisition by condemnation; increasing appropriations to the Department of Parks and Recreation in the 2012 Adopted Budget; and ratifying and confirming certain prior acts; all by a three-fourths vote of the City Council.

**Summary and background of the Legislation:** On November 4, 2008, Seattle voters approved a six-year property tax levy, the 2008 Parks and Green Spaces Levy (Levy), for the purpose of improving and expanding the City's parks and green spaces. The attached proposed Council Bill authorizes the Department of Parks and Recreation (DPR) to acquire a 9,089 square-foot property in accordance with either the terms of a purchase and sale agreement attached to this legislation; or by condemnation should the property owner fail to meet the terms of the agreement. The property is improved with a 3,924 square-foot commercial structure housing three small businesses: Manna Teriyaki Burger, Aloha Japanese Ramen Noodle, and the Greenwood QuickStop (property owner's business). The legislation authorizes the acceptance of the deed to the subject property for open space, park, and recreation purposes, and authorizes DPR to enter into new leases with the three existing businesses.

The property is located at 8102, 8102A, and 8104 Greenwood Avenue North in the Greenwood-Phinney Residential Urban Village, next to the Greenwood Library. The property was selected for acquisition after a public process that involved people from both the Greenwood and Phinney neighborhoods, and both neighborhoods expressed support for this acquisition.

The proposed acquisition will fill an identified open space gap in the Greenwood-Phinney Residential Urban Village, and will help satisfy the goal to provide parks within walking distance for residents in and around urban villages. This is a key planning goal included in both Seattle's Parks and Recreation 2006 Development Plan and 2006 Open Space Gap Report Update, and Seattle's Parks and Recreation 2011 Development Plan. The property will not be developed as a park until additional funding is available for that purpose, but in the interim DPR intends to sign five-year leases with the existing tenants, which will provide a revenue stream to offset the cost to maintain the property. The leases are included with this legislation as Exhibit F. The tenants are eligible for relocation benefits when the property is eventually developed.



<b>Project Name:</b>	<b>Project I.D.:</b>	<b>Project Location:</b>	<b>Start Date:</b>	<b>End Date:</b>
Neighborhood Park Acquisitions-2008 Parks Levy	K730010	8102 and 8104 Greenwood Ave N	February 2010	June 2012

This legislation creates, funds, or anticipates a new CIP Project.

This legislation does not have any financial implications.

This legislation has financial implications.

**Appropriations:**

<b>Fund Name and Number</b>	<b>Department</b>	<b>Budget Control Level*</b>	<b>Existing 2011 Appropriation</b>	<b>New 2012 Appropriation (if any)</b>	<b>2013 Anticipated Appropriation</b>
2008 Parks Levy Fund (33860)	Parks and Recreation	K720010	\$65,273	\$1,934,727	\$0
<b>TOTAL</b>			<b>\$65,273</b>	<b>\$1,934,727</b>	<b>\$0</b>

Appropriations Notes: The City will apply \$500,000 in 2010 King County Conservation Futures to offset acquisition costs. These funds require a 50% match and are paid on a reimbursement basis.

**Spending Plan and Future Appropriations for Capital Projects:**

<b>Spending Plan and Budget</b>	<b>2010-2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
Spending Plan	65,273	1,500,000	14,727	0	0	420,000	<b>2,000,000</b>
Current Year Appropriation		1,934,727					
Future Appropriations		0	0	0	0	0	<b>0</b>

Spending Plan and Budget Notes: The current budget for this project is \$2,000,000 (\$65,273 expended in 2010-2011). The purchase price is \$1,400,000, with an additional budget of \$600,000 for administrative time, title insurance and closing costs, environmental testing, survey, demolition of the existing building after tenants vacate, relocation expenses, etc. (The projected 2016 expenses are for tenant relocation and building demolition.)



**Funding Source:**

<b>Funding Source (Fund Name and Number, if applicable)</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
2008 Parks Levy Fund (33860)	65,273	1,934,727	0	0	0	0	2,000,000
<b>TOTAL</b>	<b>65,273</b>	<b>1,934,727</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,000,000</b>

Funding Source Notes:

**Bond Financing Required: N/A**

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

Bond Notes:

**Uses and Sources for Operation and Maintenance Costs for the Project:**

<b>O&amp;M</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>Total</b>
<b>Uses</b>							
Start Up							
On-going	10,000	20,000	20,000	20,000	20,000	20,000	110,000
<b>Sources (itemize)</b>							
Rent income	29,094	59,061	60,833	62,658	64,534	32,742	308,921
<b>Net Cost (income)</b>	<b>(19,094)</b>	<b>(39,061)</b>	<b>(40,833)</b>	<b>(42,658)</b>	<b>(44,534)</b>	<b>(12,742)</b>	<b>(198,921)</b>

Operation and Maintenance Notes: Approximately \$15,000 will be expended from the acquisition budget for minor upgrades to roof and electrical to service the existing businesses, which are slated to stay on past closing. While the businesses remain, normal ongoing maintenance costs will be paid by the tenants. The ongoing costs listed above provide about \$8,000/year for estimated maintenance costs paid for by Parks as landlord, plus a reserve for unexpected costs. Both the tenants and Parks have the option to terminate the lease with 90 days notice. The rent income assumes the tenants remain through the five years of the lease. Later in the lease, tenants may be more likely to find alternative space or Parks may decide to develop the Park.



**Periodic Major Maintenance Costs for the Project: N/A**

Major Maintenance Item	Frequency	Cost	Likely Funding Source
<b>TOTAL</b>	N/A	N/A	N/A

**Funding sources for replacement of project:** As real property, this acquisition will not be subject to replacement.

**Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact: N/A**

Position Title and Department*	Position # for Existing Positions	Fund Name & #	PT/FT	2012 Positions	2012 FTE	2013 Positions **	2013 FTE **
<b>TOTAL</b>	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Position Notes: Not applicable.

**Do positions sunset in the future?** Not applicable.

**Other Implications:**

- a) **Does the legislation have indirect financial implications, or long-term implications?**  
 The 2008 Parks and Green Spaces Levy provides funding for acquisition of new properties to fill gaps in urban villages. Funding has not been identified to develop and maintain the future parks; therefore, DPR is “land-banking” the sites, by accepting existing leases or entering into short-term leases with Council approval, or by maintaining vacant sites with minimal operations funding.
- b) **What is the financial cost of not implementing the legislation?** If this property is not acquired, there will be a delay in achieving one of the goals of the Neighborhood Parks Acquisitions category of the 2008 Parks Levy Ordinance, which is acquiring property and expanding open space in the Greenwood-Phinney Urban Center Village. This delay and further staff costs to meet this goal with another property would consume additional resources from the 2008 Parks Levy Fund. Additionally, the target site would likely be developed at some point in the future, thereby eliminating its possibility for development as a neighborhood park.
- c) **Does this legislation affect any departments besides the originating department?** No.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** The Department could try to find another opportunity like this in the



same area, but to do so would require spending additional resources and would delay the goal for park acquisition in this underserved area as called for in the 2008 Parks Levy.

e) **Is a public hearing required for this legislation?** No.

**Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?** Yes. Publication of notice is a required step for authorization of condemnation. Notices will be published in both *The Daily Journal of Commerce* and *The Seattle Times* before final action by the City Council, as required by State Law.

f) **Does this legislation affect a piece of property?** No.

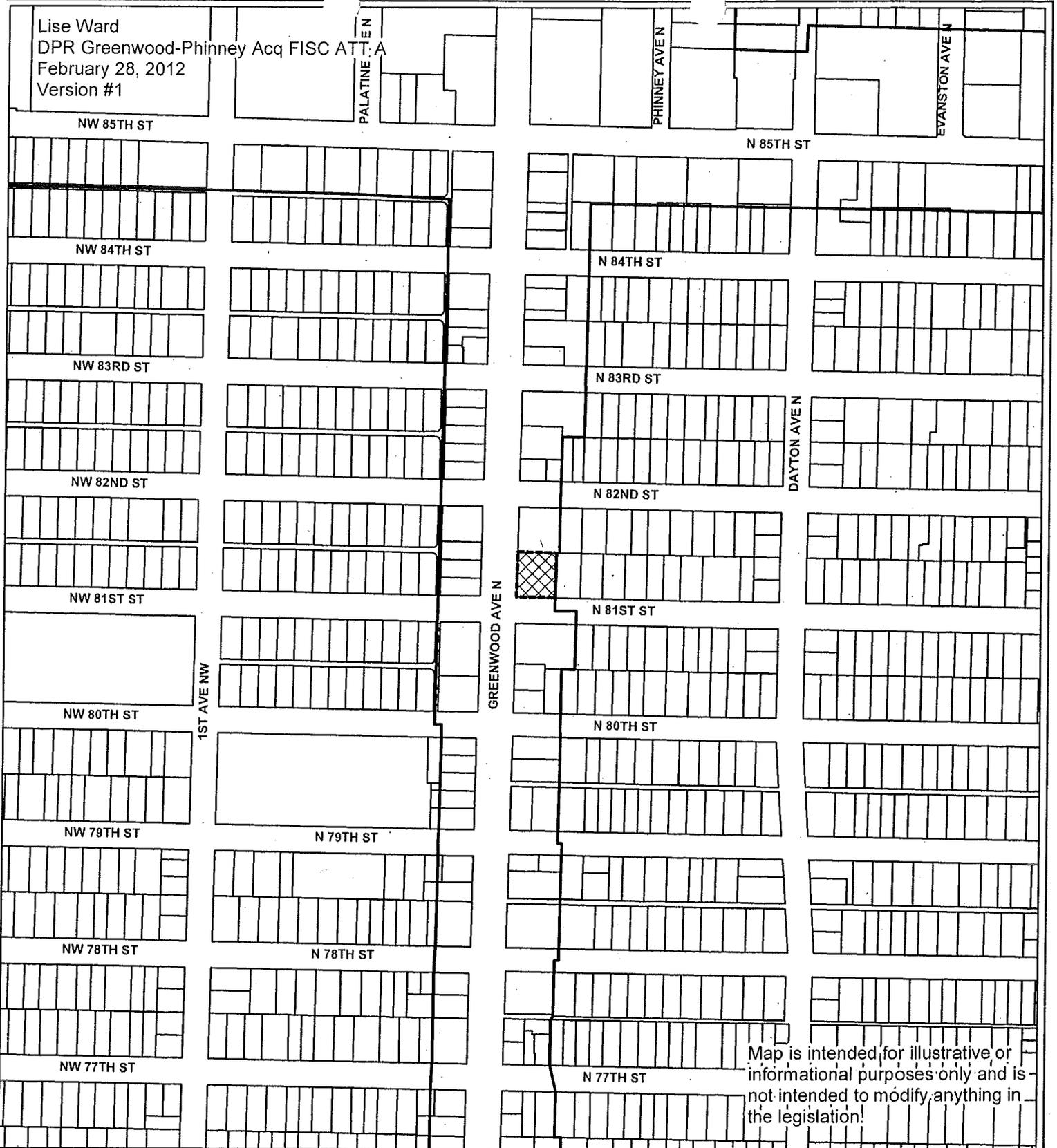
g) **Other Issues:** None.

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

Attachment A: Greenwood-Phinney Residential Urban Village – Proposed Acquisition (map)

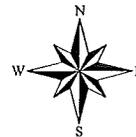
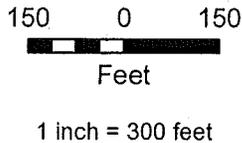
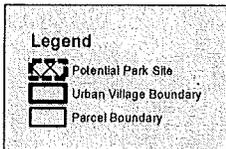
Attachment A

Lise Ward  
 DPR Greenwood-Phinney Acq FISC ATT. A  
 February 28, 2012  
 Version #1



Map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.

**Greenwood-Phinney Residential Urban Village  
 - Proposed N 81st & Greenwood Ave N Park Site**



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No warranties of any sort, including fitness, accuracy, or merchantability accompany this product.

Map date: October 27, 2011

file: v:\Project\MSC\2008 Parks and Greenspace Levy\Acquisitions\Greenwood-Phinney Ridge UV\81st & Greenwood - fig 1 (Panel a).indd



City of Seattle  
Office of the Mayor

March 27, 2012

Honorable Sally J. Clark  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that authorizes the acquisition of a 9,089 square-foot property located at 8102, 8102A, and 8104 Greenwood Avenue North, in the Greenwood-Phinney Residential Urban Village. The Greenwood-Phinney Residential Urban Village was identified in the 2008 Parks and Green Spaces Levy for neighborhood park acquisition funding to fill an open space gap.

The property is located adjacent to the Greenwood Library, and its purchase is supported by both the Greenwood and Phinney neighborhoods. The site is improved with a small commercial building that houses three small businesses: the Manna Teriyaki Burger, the Aloha Japanese Ramen Noodle, and the Greenwood Quick Stop. There are no plans to develop the property and Seattle Parks and Recreation (DPR) anticipates that the businesses will continue to operate on the site after closing according to the terms of new leases negotiated with the City. DPR has reached a negotiated agreement with the property owners, in lieu of condemnation.

The property acquisition authorized by this legislation will help meet the City's goal of providing parks within walking distance for residents in our urban villages, and will serve the needs of families in Greenwood-Phinney Residential Urban Village for many years to come. Thank you for your consideration of this legislation. Should you have questions, please contact Donald Harris at 684-8018.

Sincerely,

Michael McGinn  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor  
Office of the Mayor  
600 Fourth Avenue, 7<sup>th</sup> Floor  
PO Box 94749  
Seattle, WA 98124-4749

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