



SEATTLE CITY COUNCIL

Legislative Summary

CB 118726

Record No.: CB 118726

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125088

In Control: City Clerk

File Created: 06/09/2016

Final Action: 07/29/2016

Title: AN ORDINANCE relating to the Mercer Arena; authorizing the Director of the Seattle Center Department to execute a third amendment to the Mercer Arena Ground Lease between the City of Seattle and Seattle Opera; and lifting a budget proviso.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Juarez

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att A – Third Amendment to the Mercer Arena Ground Lease

Drafter: ned.dunn@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	06/14/2016	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk						
	Notes:						
1	City Clerk	06/14/2016	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	06/20/2016	sent for review	Parks, Seattle Center, Libraries, and Waterfront Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Parks, Seattle Center, Libraries, and Waterfront Committee						
	Notes:						

- 1 Full Council 07/11/2016 referred Parks, Seattle Center, Libraries, and Waterfront Committee
- Action Text: The Council Bill (CB) was referred. to the Parks, Seattle Center, Libraries, and Waterfront Committee
- Notes:
- 1 Parks, Seattle Center, Libraries, and Waterfront Committee 07/21/2016 pass Fail
- Action Text: The Committee recommends that Full Council pass the Council Bill (CB).
- In Favor: 3 Chair Juarez, Vice Chair Bagshaw, Member Harrell
- Opposed: 0
- 1 Full Council 07/25/2016 passed Pass
- Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:
- In Favor: 8 Councilmember Burgess, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant
- Opposed: 0
- 1 City Clerk 07/26/2016 submitted for Mayor's signature Mayor
- Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor
- Notes:
- 1 Mayor 07/29/2016 Signed
- Action Text: The Council Bill (CB) was Signed.
- Notes:
- 1 Mayor 07/29/2016 returned City Clerk
- Action Text: The Council Bill (CB) was returned. to the City Clerk
- Notes:
- 1 City Clerk 07/29/2016 attested by City Clerk
- Action Text: The Ordinance (Ord) was attested by City Clerk.
- Notes:
-

CITY OF SEATTLE

ORDINANCE 125088

COUNCIL BILL 118726

AN ORDINANCE relating to the Mercer Arena; authorizing the Director of the Seattle Center Department to execute a third amendment to the Mercer Arena Ground Lease between the City of Seattle and Seattle Opera; and lifting a budget proviso.

WHEREAS, on April 9, 2008, pursuant to Ordinance 122630, the City of Seattle and Seattle

Opera entered into a ground lease ("Ground Lease"), later amended on October 6, 2010, and December 15, 2014, wherein Seattle Opera leased the Mercer Arena to construct and operate its administrative offices and rehearsal and technical support facilities, and for other incidental purposes related to its principal business as an opera company; and

WHEREAS, the Ground Lease was consistent with the prior expression of support for the project contained in Resolution 31040, adopted by the Seattle City Council on February 19, 2008; and

WHEREAS, Resolution 31628, approved by the Seattle City Council, on November 23, 2015, expressed support for an expanded Seattle Opera project that would replace the Mercer Arena, provide additional public amenities, and supplement the public benefits that Seattle Opera is required to provide over the term of the term of the Ground Lease; and

WHEREAS, Seattle Opera has agreed to construct those amenities as part of its project and to supplement the public benefits that it is required to provide over the term of the Ground Lease; and

WHEREAS, pursuant to Resolution 31628, Ordinance 124927 appropriated \$200,000 in the Finance General Reserves budget control level (BCL) for the Seattle Opera Mercer Arena

1 project subject to the proviso that no funding could be spent until authorized by future
2 ordinance; and

3 WHEREAS, the Seattle City Council anticipated that such authority would not be granted until
4 the Executive provided Council with information on how the funding will be used for
5 enhancements to the Seattle Opera Mercer Arena project that exceed the Opera's
6 obligations for redevelopment under the terms of the current Ground Lease; and

7 WHEREAS, the Third Amendment to the Mercer Arena Ground Lease describes the
8 enhancements to the Seattle Opera Mercer Arena project and addresses the conditions
9 precedent contained in Resolution 31628; and

10 WHEREAS, Resolution 31628 requested that the Executive propose including \$4,800,000 in the
11 City's Capital Improvement Program for review by the Seattle City Council in the 2017-
12 2018 biennial budget process so that, if appropriated by the Seattle City Council, the
13 funding would be available to Seattle Opera in 2017; and

14 WHEREAS, if appropriated by the Seattle City Council, payment of the remaining \$4,800,000 is
15 to be contingent upon Seattle Opera's compliance with the conditions contained in
16 Section 12 of the Mercer Arena Ground Lease; and

17 WHEREAS, the Third Amendment to the Mercer Arena Ground Lease authorizes payment of
18 \$4,800,000 to Seattle Opera, subject to appropriation of the funds by the Seattle City
19 Council in the 2017-2018 Budget, fulfillment of the lease conditions, and provision of
20 Seattle Opera Mercer Arena project enhancements and other public benefits;

21 NOW, THEREFORE,

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

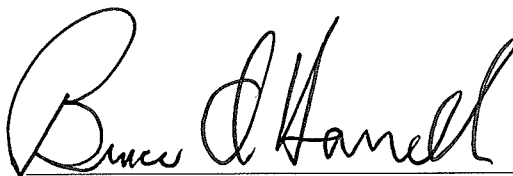
Section 1. As requested by the Seattle Center Director and recommended by the Mayor, the Seattle Center Director or the Director's designee is authorized to execute, for and on behalf of the City of Seattle, an amendment to the April 9, 2008, Ground Lease between the City and Seattle Opera, substantially in the form of the agreement attached hereto as Attachment A and identified as "THIRD AMENDMENT TO THE MERCER ARENA GROUND LEASE BETWEEN THE CITY OF SEATTLE AND SEATTLE OPERA."

Section 2. The restrictions imposed by the following budget proviso are removed because the conditions in the proviso have been satisfied and they are no longer restrictions for any purpose, including those in Section 1 of Ordinance 124927:

Item	Department	2016 Green Sheet	Proviso	Budget Control Level
2.1	Finance General	55-2-A-1	"None of the money appropriated in the Finance General Reserves BCL for the Seattle Opera may be spent until authorized by future ordinance. Council anticipates that such authority will not be granted until the Executive provides Council with information on how the funding will be used for enhancements beyond what is required in the City's current lease with the Seattle Opera, and a contract for public benefits."	Reserves (00100-2QD00)

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 25th day of July, 2016,
and signed by me in open session in authentication of its passage this 25th day of
July, 2016.



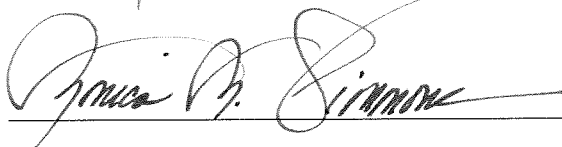
President _____ of the City Council

Approved by me this 29th day of July, 2016.



Edward B. Murray, Mayor

Filed by me this 29th day of July, 2016.



Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment A – Third Amendment to the Mercer Arena Ground Lease between the City of Seattle and Seattle Opera

**THIRD AMENDMENT TO THE MERCER ARENA GROUND LEASE BETWEEN THE
CITY OF SEATTLE AND SEATTLE OPERA.**

This Third Amendment to the April 9, 2008, Mercer Arena Ground Lease between The City of Seattle and Seattle Opera is entered into by the parties thereto and is effective the date it is fully executed by a representative of each Party following authorization by ordinance of the Seattle City Council.

WHEREAS, consistent with the expression of support contained in Resolution 31040, adopted by the Seattle City Council on February 19, 2008, and pursuant to Ordinance 112630, approved by the Seattle City Council, on April 9, 2008, The City of Seattle ("City") and Seattle Opera ("Opera") entered into a ground lease (the "Ground Lease") wherein Opera leased the Mercer Arena from City for an initial term of 30 years and giving Opera two one-year options to extend the Rent Commencement Date ("Extension Options"); and

WHEREAS, the lease required Opera to use the property to construct and operate its administrative offices, rehearsal and technical support facilities, and for other incidental purposes related to its principal business as an opera company, with the intent that the property would be developed and used in a manner that actively engages the public, including along the Mercer Street frontage; and

WHEREAS, on October 26, 2010, the Ground Lease was amended to increase the number of Extension Options to five (5) periods of one (1) year each, or to June 30, 2014, with an option fee to be paid for each Extension Option exercised; and

WHEREAS, effective July 1, 2014, Opera began paying Rent under the Ground Lease; and

WHEREAS, on December 15, 2014, the Ground Lease was further amended to address administrative issues related to the parties' interim shared use of the Mercer Arena prior to construction commencement; and

WHEREAS, since execution of the Ground Lease, Opera has determined that constructing a new, more costly building would enable the addition of spaces supporting an increased focus on community and educational programs, allow for direct access to McCaw Hall at the stage level and provide more public amenities than originally envisioned; and

WHEREAS, Resolution 31628, approved by the Seattle City Council on November 23, 2015, expressed support for Opera's enhanced project, states that: "...the Mercer Arena has been closed since 2003 due to seismic and code compliance deficiencies and currently produces no public benefits, and that although the Arena redevelopment to be undertaken by the Opera under

the terms of lease will improve the facility, additional enhancements to the Arena will provide additional benefits to the City’s facility and to the vitality of the Seattle Center”; and

WHEREAS, Opera is constructing a new building with spaces supporting an increased focus on community and educational activities and providing additional public amenities and consistent with Resolution 31628, Opera has agreed to provide certain supplemental benefits over the term of the Ground Lease; and

WHEREAS, Opera has unique opportunities to contribute toward the City’s goals of racial equity and inclusiveness through its educational, outreach and programming efforts; and

WHEREAS, in addition to the new public amenities the building is expected to have a longer useful life and a higher residual asset value at the end of the Opera’s lease term; and

WHEREAS, pursuant to Resolution 31628, \$200,000 was appropriated in the 2016 City budget and \$4,800,000 of the funds will be proposed for inclusion in the City’s Capital Improvement Program in the 2017-2018 biennial budget, with payment contingent upon Opera’s compliance with requirements contained in Section 12 of the Ground Lease and further contingent upon Opera’s applying the City’s funding, together with other additional funds, to construct a building that satisfies the requirement of the Resolution by “exceeding the Opera’s obligations for redevelopment under the terms of the existing lease”;

NOW, THEREFORE, to address the requirements of Resolution 31628 and in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Article Numbers and Continued Effect of Mercer Arena Ground Lease Terms Not Amended

All Article and Section references herein are to the Article and Section numbers in the Ground Lease, as amended by the First and Second Amendments. In this Amendment, all references to the “Ground Lease” include the original Ground Lease and all amendments. All provisions of the Ground Lease that have not been modified by this Third Amendment remain in full force and effect.

2. Amendments to Mercer Arena Ground Lease

A. Subsection 1.10 Exhibits.

Subsection 1.10, Exhibits, is amended as follows:

1.10 Exhibits. The following exhibits are made a part of this Lease:

Exhibit 1.1.1 – Legal Description

Exhibit 1.1.2 – Premises Site Plan

Exhibit 12.1R – Conceptual Plan for Initial Improvements

Exhibit 18.1 – Insurance Requirements
Exhibit 34.1 – Memorandum of Ground Lease

B. Section 12, Initial Improvements and Subsequent alterations by Opera.

Section 12. Initial Improvements and Subsequent Alterations by Opera, is amended as follows:

12.1 Opera's Obligation to Undertake Improvements.

The parties acknowledge and agree that the renovation or replacement of Mercer Arena is a fundamental purpose of this Lease and Opera agrees to use commercially reasonable efforts to complete the Initial Improvements and to obtain a certificate of occupancy for the Permitted Use, subject to delays caused by Seattle Center or *force majeure* by December 31, 2019. Opera's conceptual plan for the Initial Improvements, contained in Exhibit 12.1R, is anticipated to cost approximately \$60 million in hard and soft costs and currently contemplates construction of an entirely new building. Prior to Seattle Design Commission design development review, Opera shall present its proposed plan for Opera's Improvements to the Parks, Seattle Center, Libraries and Waterfront Committee of the Seattle City Council. The City Council shall endorse Opera's plan as presented or by resolution transmitted to the Design Commission, may provide comments and suggest modifications thereto. Thereafter, the specific terms and conditions of construction shall be contained in a separate construction agreement, the "Construction Agreement," that the parties shall negotiate and execute before Opera enters into a construction contract for the work. Upon completion of the Initial Improvements, the parties shall amend this Lease by appending hereto a revised Exhibit 1.1.2 that more accurately depicts the location of the building, as improved, on the Premises.

12.2 City Contribution to Initial Improvements.

Subject to City's appropriation of funds, City shall contribute five million dollars (\$5,000,000) for public amenities that Opera will construct as part of the Initial Improvements, which amenities are identified below and depicted in Exhibit 12.1R. Payment will be made in two phases, with the first phase a payment of two hundred thousand dollars (\$200,000) due following execution of this Third Amendment to the Ground Lease and upon City's receipt of an invoice therefor from Opera. Provided the parties have executed the Construction Agreement described in Subsection 12.1 and the Opera has fully complied with the prerequisites for commencement of the Initial Improvements described in this Section 12, but in no event before the later of January 1, 2017 or commencement of construction of the Initial Improvements, City will disburse the remaining four million eight hundred thousand dollars (\$4,800,000) as provided in the Construction Agreement required under Section 12 of the Ground Lease.

The public amenities that Opera will construct shall include:

(a) Construction of a new building with total project budget of approximately \$60 million, an increase of \$20 million. The building shall include spaces which support the provision of community and educational activities by the Opera and physical connections with McCaw Hall at the stage level to provide additional operational synergies for Opera and the City.

(b) Design and construction of open space of approximately 6,000 sq. ft. on 4th Ave N/Jenkins Way from Mercer Street to Republican Street, with amenities to include landscaping, irrigation, screening, hardscape, lighting, environmental graphics, and other amenities.

(c) Design of exterior landscaping, irrigation, hardscape, lighting, environmental graphics and other amenities on the Mercer street frontage from Mercer Arena to the Kreielsheimer Promenade.

12.3 Conditions for Construction of Improvements.

Before commencing the Initial Improvements, Opera shall demonstrate to the reasonable satisfaction of the City's Finance Director that it has sufficient financial resources to complete the Initial Improvements in accordance with approved design documents and shall thereafter commence construction of such Initial Improvements and diligently prosecute such work to its completion.

Opera shall not make any alterations, additions or improvements in or to the Premises without first submitting to City professionally prepared plans and specifications for such work and obtaining City's prior written approval thereof. Except as provided in Subsection 12.2 of this Ground Lease, Opera covenants that it will cause all alterations, additions and improvements to the Premises, to be completed at Opera's sole cost and expense by a contractor approved by City and in a manner that (a) is consistent with City approved plans and specifications, the Construction Agreement, and any conditions reasonably imposed by City in connection therewith; (b) is in conformity with first-class, commercial standards; (c) includes acceptable insurance coverage for City's benefit; (d) does not affect the structural integrity of the Premises and/or Marion Oliver McCaw Hall or any of the Premises' systems; and (e) does not invalidate or otherwise affect the construction or any system warranty then in effect with respect to the Premises. Opera shall secure all governmental permits and approvals required for the Initial Improvements and comply with all other applicable governmental requirements and restrictions applicable to the Initial Improvements. Except as provided in Section 17 with regard to concurrent negligence, Opera shall indemnify, defend and hold City harmless from and against all losses, liabilities, damages, liens, costs, penalties and expenses (including attorneys' fees, but without waiver of the duty to hold harmless) arising from or out of Opera's performance of such alterations, additions and improvements, including, but not limited to, all which arise from or out of Opera's breach of its obligations under the terms of this Section 12. Upon the expiration or termination of this Lease, all alterations,

additions and improvements (expressly including all light fixtures; heating and ventilation units; floor, window and wall coverings; and electrical wiring), except Opera's or Subtenants' moveable trade fixtures and appliances and equipment not affixed to the Premises (including without limitation furniture, computers, point of sale systems and registers) and cabling and wiring for computers, telephones and other electronic equipment, shall become the property of City without any obligation on its part to pay for any of the same, unless City bond financing has been used in the construction of any improvements, in which case such improvements shall become City's property at the time they are constructed or installed. Opera shall not remove all or any portion of such improvements upon the termination of this Lease. Within ninety (90) days after the completion of any alteration, addition or improvement to the Premises, Opera shall deliver to City a full set of "as-built" plans of the Premises showing the details of all alterations, additions and improvements made to the Premises by Opera. The provisions of this paragraph shall apply to the Initial Improvements and, after the City issues a certificate of occupancy for the Initial Improvements, all subsequent alterations, additions or improvements to the Premises that, in the aggregate over any calendar year, are reasonably likely to result in total construction costs in excess of five hundred thousand dollars (\$500,000.00), as such amount is increased by the percentage increase of the Index (as such term is defined below) published most recently prior to the calendar year during which improvements are made compared to the Index published most recently prior to the Rent Commencement Date. Notwithstanding the foregoing, however, in the case of Minor Alterations, (i) the first sentence and clause (a) of the second sentence of this paragraph shall not apply, (ii) City hereby waives the right to approve Opera's contractor with respect to Minor Alterations, and (iii) Opera will deliver a set of "as-built" plans only if the extent or nature of the Minor Alterations is such that Opera retains the services of an architect to prepare plans and specifications with respect thereto. "Minor Alterations" means alterations, additions or improvements to the Premises (i) made subsequent to the Initial Improvements and (ii) which, when combined with other anticipated projects, is not reasonably likely to result in total construction cost expenditures of more than five hundred thousand dollars (\$500,000.00) in any calendar year, as such amount is increased by the percentage increase of the Index, published most recently prior to the calendar year during which improvements are made compared to the Index published most recently prior to the Rent Commencement Date and (iii) do not involve any shared systems or shared access with the City or any of its buildings in Seattle Center or any building elements for which the City has major maintenance responsibility such as the roof and exterior walls or any building component or system for which City has major maintenance responsibilities under this Lease, such as the roof and exterior walls. Opera shall not intentionally divide improvement projects into discrete units of work, nor schedule them in such a manner, as to artificially bring them within the definition of Minor Alterations.

As used in this Lease, "Opera's Improvements" means the Initial Improvements and any improvements to the Premises made subsequent to the

date the Initial Improvements have been completed; and “Index” means the Consumer Price Index for All Urban Consumers, U.S. city average for all items (1982-84=100) published by the Bureau of Labor Statistics of the United States Department of Labor (the “Bureau”); provided, however, that (a) if the Bureau publishes a revised version of the Index, then the revised version shall be used, and (b) if the Index is discontinued, the parties shall follow any official consumer price index, whether so named or designated or not, issued by any authorized agency of the United States which supplants the Index and (c) if the Index is discontinued without being supplanted, the parties shall use any comparable general wholesale or retail price index for the United States reasonably selected by City as being the closest to the Index and reasonably approved by Opera.

Notwithstanding any other provisions of this Lease reserving to City portions of the Premises below Opera’s Improvements or more than 85 feet above the finished grade of the sidewalk on Mercer Street, nothing in this Lease is intended to prevent Opera from future expansion of the Initial Improvements from time to time to the extent such expansion would otherwise be allowed under then applicable law and/or zoning and is otherwise in compliance with applicable provisions of this Section 12, provided, however, that any expansion of the Initial Improvements into the ground (except for footings for a replacement building) or into the air rights reserved by Seattle Center would be subject to negotiation with City and may require the payment of additional Base Rent appropriate in view of the nature and use of the expansion improvements.

C. Section 38 Public Benefits

Section 38, Public Benefits, is amended as follows

38. Public Benefits. City's willingness to enter into this Lease with Opera is predicated, in part, on the nature of Opera’s business and the compatibility of such business with the use of the remainder of Seattle Center and the benefits accruing to the public through Opera’s use of the Premises. The parties agree that, with respect to the Initial Improvements, anticipated benefits include (i) Opera’s capital investment in the Premises, (ii) the sustainable technologies that will be utilized in development of the site, (iii) the expected LEED certification for the Premises, and (iv) Opera’s provision of the design and installation of the landscaping, hardscaping and other improvements identified in Subsection 12.2. Opera shall report to the City regarding implementation of such benefits within 60 days of receipt of the Certificate of Occupancy for the Initial Improvements. In addition, continuously throughout the Lease Term, Opera agrees to provide the following benefits, or an equivalent replacement approved by the Director, and to submit an annual report thereof to the Director as required by Subsection 5.1: (i) education programs for students, reported by the number and age groups of students served; (ii) education events, activities and outreach efforts provided to the public by Opera including efforts to serve persons who historically have been

underrepresented in Opera audiences which may include outreach efforts, and provision of free or discounted tickets, scholarships, and culturally relevant programming, reported by the number, attendance or use and type of effort, and programming; (iii) Opera employment, reported by number and type of Opera employees, both full and part-time; (iv) if and to the extent and for such periods as Opera has no need for the space itself, collaboration with other groups to make office and rehearsal space available to activate and invigorate the Mercer corridor; and (v) incubation programs designed to encourage and support diversity in the dramatic arts including artistic and back and front of house employment opportunities; reported by the number, attendance and type of program; (vi) artistic and educational efforts designed to address issues of race and social justice reflective of a broad cultural context reported by number and type of efforts; and (vii) when relevant, other collaborative efforts of benefit to the public and Seattle Center.

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

CITY OF SEATTLE

SEATTLE OPERA

By: _____
Robert Nellams, Director
Seattle Center Department

By: _____
Aidan Lang, General Director
Seattle Opera

Date: _____ Date: _____

STATE OF WASHINGTON)

COUNTY OF KING) ss. (Acknowledgement for City)
)

On this ____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of the Seattle Center Department of the **CITY OF SEATTLE**, the entity that executed the foregoing instrument as City; and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and that he was authorized to execute said instrument for said entity.

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

[Signature]

[Printed Name]

NOTARY PUBLIC in and for the State of Washington residing at _____
My commission expires _____.

STATE OF WASHINGTON)

COUNTY OF KING) ss. (Acknowledgement for Opera)
)

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

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

[Signature]

[Printed Name]

NOTARY PUBLIC in and for the State of Washington residing at _____
My commission expires _____.

EXHIBIT 12.1R
Conceptual Plan for Improvements



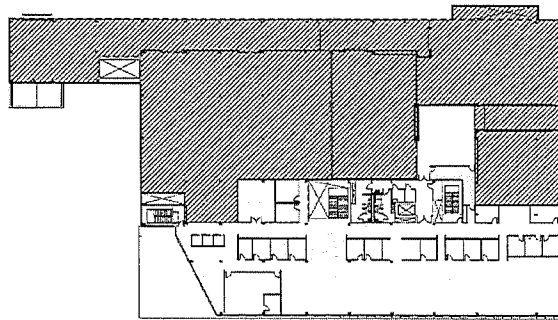
SCHEMATIC DESIGN SEATTLE OPERA AT THE CENTER

Mercer Street & 4th Avenue North / Jenkins Way

100373.20

4/5/2016 8:45:45 PM

nbbj
225 1ST AVENUE NORTH
SEATTLE, WASHINGTON 98101
PHONE 206 223 5555
FAX 206 223 5909

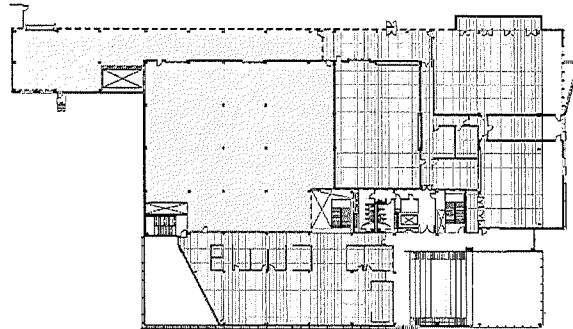


Occupancy Groups Legend



$$\begin{aligned} &A-3 \quad B \quad S-1 \\ &1,164,255,000 + 1,511,459,000 + 37,162,500 = \\ &0.24 + 0.22 + 0.01 = \\ &0.27 < 1 \end{aligned}$$

③ L3 - OFFICE LEVEL
1/32" = 1'-0"

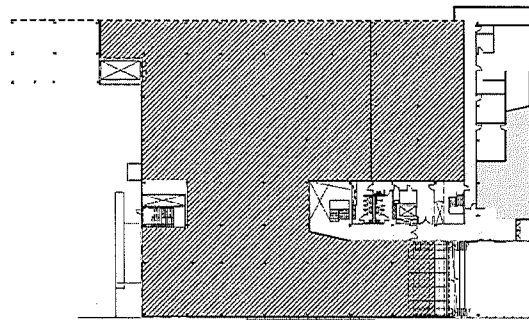


Occupancy Groups Legend



$$\begin{aligned} &A-3 \quad B \quad F-1 \quad S-1 \\ &15,774,029,500 + 8,239,959,000 + 4,755,445,500 + 10,393,523,500 = \\ &0.55 + 0.12 + 0.1 + 0.2 = \\ &0.97 < 1 \end{aligned}$$

③ L2 - STAGE LEVEL
1/32" = 1'-0"

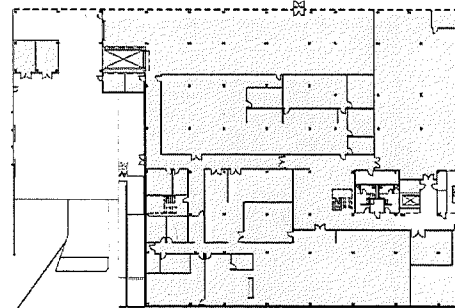


Occupancy Groups Legend



$$\begin{aligned} &A-3 \quad B \quad M \\ &2,840,000,000 + 6,116,029,000 + 1,000,000,000 = \\ &0.29 + 0.29 + 0.25 = \\ &0.23 < 1 \end{aligned}$$

② L1 - ENTRY LEVEL
1/32" = 1'-0"



Occupancy Groups Legend



$$\begin{aligned} &B \quad F-1 \quad S-1 \\ &1,339,653,000 + 14,640,445,500 + 17,222,923,000 = \\ &0.05 + 0.23 + 0.23 = \\ &0.51 < 1 \end{aligned}$$

① L0 - LOWER LEVEL
1/32" = 1'-0"

SBC 2012 TABLE 503

ALLOWED BUILDING HEIGHTS AND AREAS

TYPE IIB

GROUP	STORIES	AREA	AREA PER FOOT
A-3	2	650	32.50
B	2	12,500	6250
M	2	12,500	6250
S-1	2	12,500	6250
S-2	15	900	60.00

DESIGNER: JACOB J. ALTMAN ARCHITECTS, INC.
OWNER: SEATTLE CENTER
ARCHITECT: JACOB J. ALTMAN ARCHITECTS, INC.
STRUCTURAL ENGINEER: HENNINGSON HENNINGSON ASSOCIATES
ELECTRICAL ENGINEER: JACOB J. ALTMAN ARCHITECTS, INC.
MECHANICAL ENGINEER: JACOB J. ALTMAN ARCHITECTS, INC.
PLUMBING ENGINEER: JACOB J. ALTMAN ARCHITECTS, INC.
FIRE ENGINEER: JACOB J. ALTMAN ARCHITECTS, INC.

IIB CONSTRUCTION

Occupancy Group Area

GROUP	AREA
L0 - LOWER LEVEL	
A-3	650 SF
B	12,500 SF
M	12,500 SF
S-1	12,500 SF
S-2	900 SF
L1 - ENTRY LEVEL	
A-3	12,500 SF
B	12,500 SF
M	12,500 SF
S-1	12,500 SF
L2 - STAGE LEVEL	
A-3	15,774,029,500 SF
B	8,239,959,000 SF
F-1	4,755,445,500 SF
S-1	10,393,523,500 SF
L3 - OFFICE LEVEL	
A-3	1,164,255,000 SF
B	1,511,459,000 SF
S-1	37,162,500 SF

FIRE BARRIER LEGEND

1. 1/2" TYPE X Gypsum Board
2. 1/2" TYPE X Gypsum Board
3. 1/2" TYPE X Gypsum Board
4. 1/2" TYPE X Gypsum Board
5. 1/2" TYPE X Gypsum Board
6. 1/2" TYPE X Gypsum Board
7. 1/2" TYPE X Gypsum Board
8. 1/2" TYPE X Gypsum Board
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14. 1/2" TYPE X Gypsum Board
15. 1/2" TYPE X Gypsum Board
16. 1/2" TYPE X Gypsum Board
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18. 1/2" TYPE X Gypsum Board
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SEATTLE OPERA AT THE CENTER

Schematic Design

ISSUE REVISIONS

MARK DATE DESCRIPTION

Author

Designer

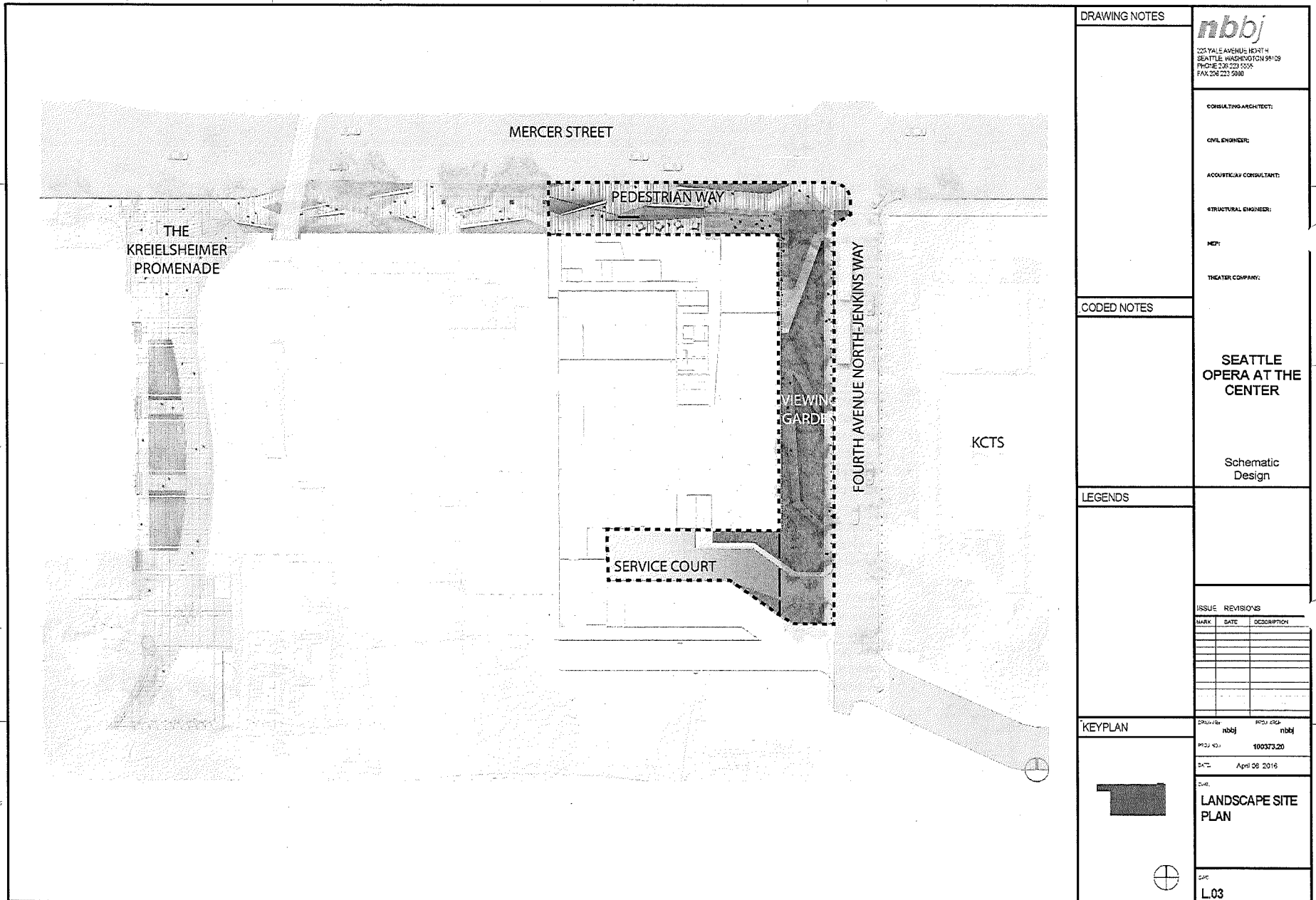
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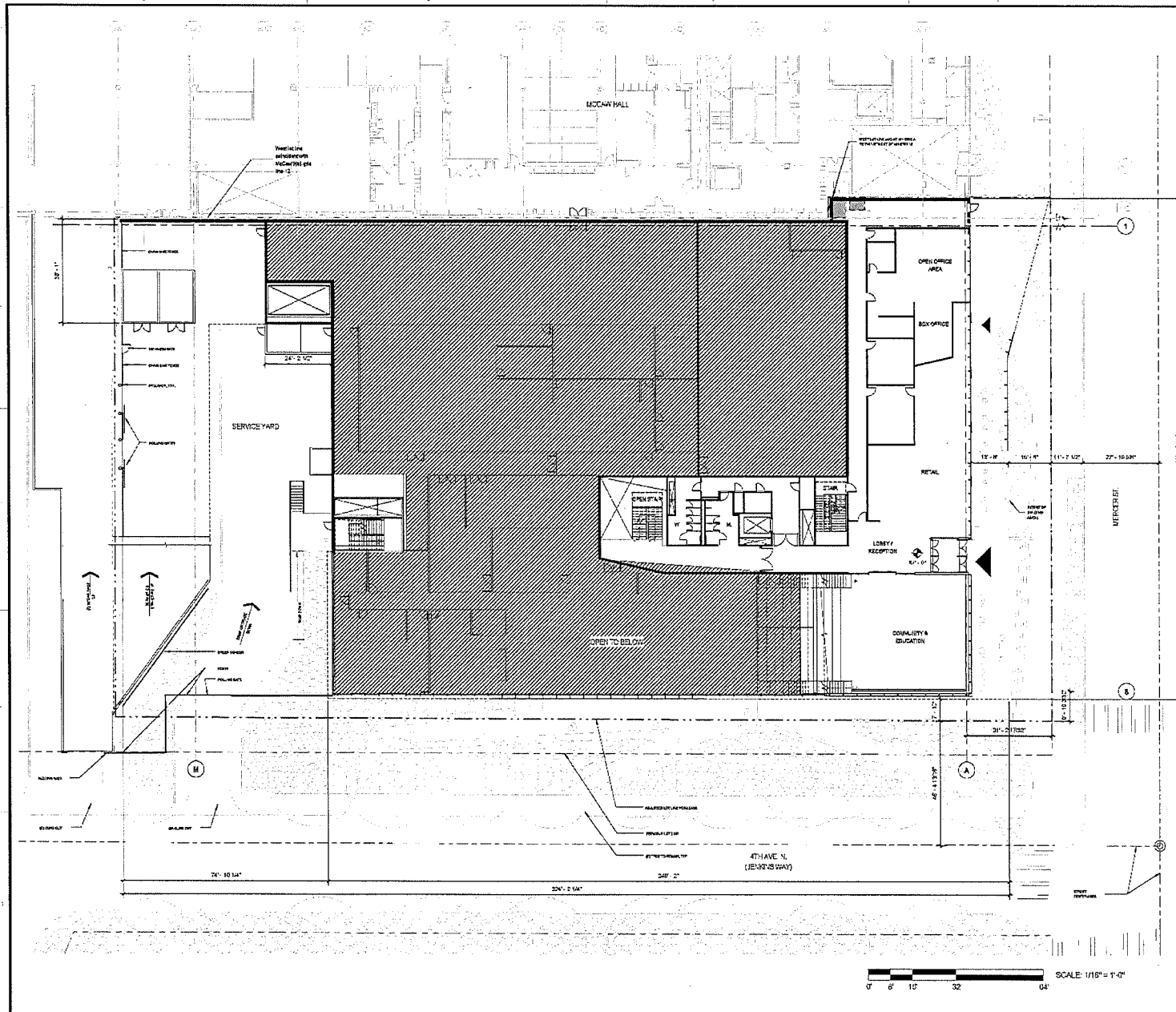
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April 08, 2018

TYPE IIB CONSTRUCTION

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DRAWING NOTES

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223 Yale Avenue N
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CODING NOTES

SEATTLE OPERA AT THE CENTER

Schematic
Design

LEGENDS

ISSUE REVISIONS

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Author Designer

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ARCHITECTURAL

SITE PLAN

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223 YALE AVENUE NORTH
SEATTLE, WASHINGTON 98109
PHONE 206 223 5855
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CIVIL ENGINEER:
RDYF
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Schuler Shook
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Chicago, IL 60610 312/344-8233

LIGHTING DESIGN:
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SEATTLE OPERA AT THE CENTER

Schematic Design

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April 08, 2016	

L4 - LOWER ROOF
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SEATTLE OPERA AT THE CENTER

Schematic Design

LEGENDS

ISSUE REVISIONS

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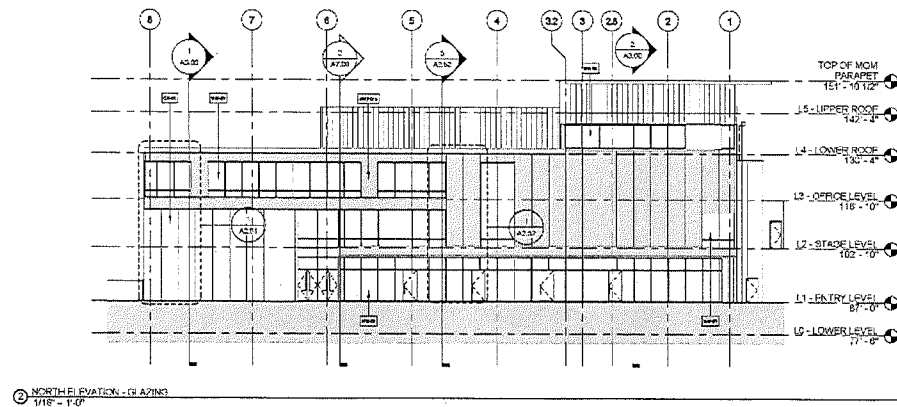
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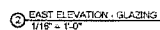
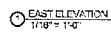
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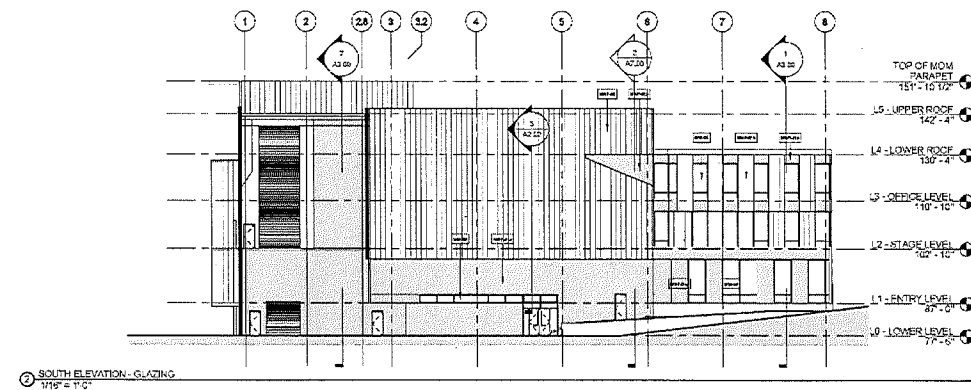
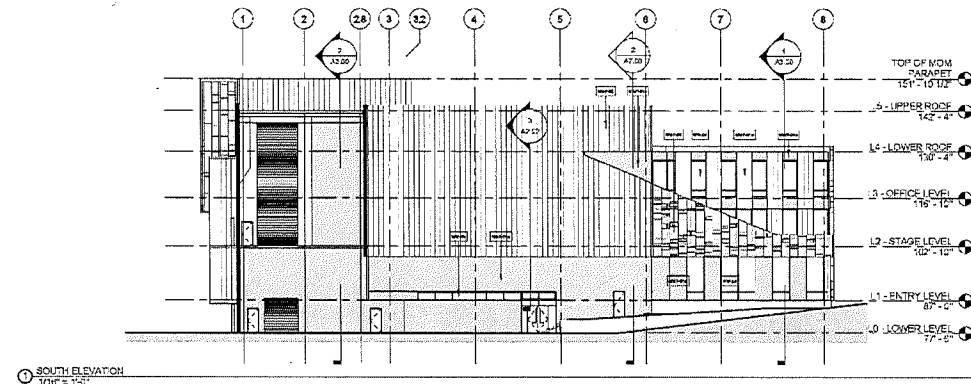
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SEATTLE
OPERA AT THE
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DRAWING NOTES

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SEATTLE OPERA AT THE CENTER

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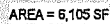
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KEYPLAN



BUILDING ELEVATIONS

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SUMMARY and FISCAL NOTE*

Department:	Contact Person/Phone:	Executive Contact/Phone:
Seattle Center	Ned Dunn/684-7212 Kerry Smith/615-0358	Candice Livingston-Foote/233-7274

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to the Mercer Arena; authorizing the Director of the Seattle Center Department to execute a third amendment to the Mercer Arena Ground Lease between the City of Seattle and Seattle Opera; and lifting a budget proviso.

Summary and background of the Legislation: Mercer Arena, built in 1927 as the Civic Ice Arena, has been closed to public assembly use since 2003 due to seismic and related code deficiencies. In 2008, in an agreement supported by Resolution 31040 and approved by Ordinance 122630, Seattle Opera entered into a lease for the site, intending to redevelop and use the site for their rehearsal spaces, costume and set construction facilities and administrative offices. Due to economic conditions, fundraising for the project was challenging and in 2010, the agreement was amended by Ordinance 123399, to extend the rent commencement date while the Opera raised funds for the project. The lease commenced July 1, 2014 and the Opera began paying rent. Later in 2014 the lease was amended a second time to address administrative issues related to the parties' interim shared use of the Mercer Arena prior to construction commencement.

Resolution 31628 expressed support for the City providing \$5 million for an expanded Opera project that would replace the Mercer Arena and provide additional project enhancements and supplement the public benefits in the lease. Of this amount, \$200,000 is appropriated in the Finance General Reserves BCL in the 2016 Adopted Budget. A budget proviso was placed on these funds, requiring the Executive to provide Council with information on how the funding would be used for enhancements beyond what is required in the City's current lease with the Seattle Opera, and a contract for public benefits. The Third Amendment addresses those requirements and the legislation lifts the proviso.

The remaining \$4.8 million appropriation will be included in the proposed Seattle Center's 2017-18 Capital Improvement Program Budget and, subject to approval by the Seattle City Council, would be made available to the Opera in 2017 after they have fulfilled the requirements contained in Section 12 of the existing lease. Those requirements include:

- Review of the project by the Seattle Design Commission,
- Presentation of the proposed renovation plan to the Parks, Seattle Center, Libraries and Waterfront Committee of the City Council,
- Completion of a construction agreement between Seattle Center and the Opera, and
- Opera's demonstration to the City Budget Director that they have sufficient financial resources to complete the proposed project.

Project Enhancements and Supplemental Public Benefits

The additional project enhancements, which exceed \$5 million by over \$1 million, are itemized in Summary Attachment 1 - Project Enhancements and include:

- The budget for the expanded Opera project has increased from approximately \$40 million to over \$60 million. The Opera will replace the Mercer Arena with an entirely new building, increasing the estimated useful life of the building, allowing for direct access to McCaw Hall at the stage level and enabling the addition of spaces that support the Opera's increased focus on community and educational program. Direct access at the stage level will create efficiencies for both the Opera and Seattle Center as scenery and stage materials can be moved directly from the Opera's technical spaces to McCaw Hall, reducing the time necessary for the move-in and move-out of shows. The expanded project will also increase the depreciated present value of the building being provided to the City at the end of the least term. The building is being designed for a 100 year life, assuming regular ongoing maintenance. In 2043 the building will be delivered to the City and, assuming a conservative 80 year useful life, the depreciated present value of the building is estimated at \$12.8 million, an increase in value of \$5.5 million when compared to the previous \$40 million project. If a 100 year building life is used in the estimate, the increased present value to the City at the end of the lease term would be \$6.7 million.
- The addition of landscaping, irrigation, screening, hardscape, lighting, environmental graphics and other amenities in the public open space to the east of the new building. These project enhancements were not a requirement of the lease and are budgeted at \$569,000 for design and construction.
- Provision of an integrated Mercer Street frontage design, including landscaping, irrigation, hardscape, lighting, environmental graphics and other amenities for the area extending from the Mercer Arena to the Kreielsheimer Promenade. This enhancement is budgeted at \$75,000.

The Opera is in a unique position to be able to contribute toward the City's goals of racial equity and inclusiveness through its educational, outreach and programming efforts and will utilize that position to:

- Provide education events and outreach efforts for persons that have historically been underrepresented in Opera audiences, which may include the provision of free or discounted tickets, and scholarships, and culturally relevant programming.
- Support incubation programs designed to encourage and support diversity in the dramatic arts including artistic and back and front of house employment opportunities.
- Provide artistic and educational efforts designed to address issues of race and social justice reflective of a broad cultural context.

Summary Attachment 2, a Blackline Third Amendment to the Mercer Arena Ground Lease, shows the proposed changes to the Mercer Arena Ground Lease as amended.

3. SUMMARY OF FINANCIAL IMPLICATIONS

 X This legislation does not have direct financial implications.

Note: This legislation lifts a \$200,000 2016 budget proviso in Finance General Reserves BCL for the Seattle Opera for funds that have been appropriated.

4. OTHER IMPLICATIONS

a) Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?

No

b) Is there financial cost or other impacts of not implementing the legislation?

If the proviso is not lifted or additional funding approved for the Mercer Arena project, the project scope would be reduced, eliminating the enhancements and supplemental public benefits and impacting the Opera's ability to activate Mercer Street.

c) Does this legislation affect any departments besides the originating department?

No

d) Is a public hearing required for this legislation? No

e) Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant? No

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation? No

g) Does this legislation affect a piece of property? No

h) Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?

This legislation supports the provision, by Seattle Opera, of new artistic and programming efforts designed to address issues of race and social justice in the arts.

i) If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.

Not applicable.

j) Other Issues:None

List attachments/exhibits below:

Summary Attachment 1 – Project Enhancements

Summary Attachment 2 – Blackline Third Amendment to the Mercer Arena Ground Lease

Third Amendment to the Mercer Arena Ground Lease Project Enhancements

Assumptions:	
2008 Seattle Opera Mercer Arena Project Budget	\$40,000,000
2016 Seattle Opera Mercer Arena Project Budget	\$60,272,700
2016 Seattle Opera Project Budget Less Open Space & Mercer St. Frontage Improvements	\$59,628,700
Lease Term in Years	30
Lease Start and Rent Commencement Date	1-Jul-14
Assumed Building Completion	2018
Initial Term of Lease Ends	2043
2008 Budgeted Project Building Life in Years, with regular maintenance	60
2016 Budgeted Project Building Life in Years, with regular maintenance ¹	100
Years of Building Depreciation, completion to end of Initial Term	25
2008 Budgeted Project Building Depreciation (straightline)	41.67%
2016 Budgeted Project Building Depreciation (straightline)	31.25%
Present Value of 2008 Budgeted Depreciated Building	\$7,310,023
Range of Present Value of 2016 Budgeted Depreciated Building	\$12,843,105
Real Discount Rate	5.00%
Nominal Discount Rate	8.15%
Annual Escalation/CPI	3.0%
Project Enhancements:	
Range of Net Present Value of Increase in Opera's Capital Investment	\$5,533,081
Open Space Improvements	\$569,000
Mercer Street Frontage Improvements Design	\$75,000
Total Project Enhancements	\$6,177,081
City Funds	\$5,000,000
Estimated Net Value of Project Enhancements to City	\$1,177,081

¹ The 2016 project is designed for a 100 year useful life. If a 100 year life is used in the estimate, the present value of the depreciated building at the end of the lease would be \$14,010,659, increasing the net present value of the Opera's capital investment by \$6,700,636 over the 2008 project. The value of the total project enhancements would be \$7,344,636 resulting in the project enhancements providing the City with an increased net value of \$2,344,636. A more conservative 80 year useful life was used for the estimate.

Attachment 2 - Blackline Third Amendment to the Mercer Arena Ground Lease

**THIRD AMENDMENT TO THE MERCER ARENA GROUND LEASE BETWEEN THE
CITY OF SEATTLE AND SEATTLE OPERA.**

This Third Amendment to the April 9, 2008, Mercer Arena Ground Lease between The City of Seattle and Seattle Opera is entered into by the parties thereto and is effective the date it is fully executed by a representative of each Party following authorization by ordinance of the Seattle City Council.

WHEREAS, consistent with the expression of support contained in Resolution 31040, adopted by the Seattle City Council on February 19, 2008, and pursuant to Ordinance 112630, approved by the Seattle City Council, on April 9, 2008, The City of Seattle (“City”) and Seattle Opera (“Opera”) entered into a ground lease (the “Ground Lease”) wherein Opera leased the Mercer Arena from City for an initial term of 30 years and giving Opera two one-year options to extend the Rent Commencement Date (“Extension Options”); and

WHEREAS, the lease required Opera to use the property to construct and operate its administrative offices, rehearsal and technical support facilities, and for other incidental purposes related to its principal business as an opera company, with the intent that the property would be developed and used in a manner that actively engages the public, including along the Mercer Street frontage; and

WHEREAS, on October 26, 2010, the Ground Lease was amended to increase the number of Extension Options to five (5) periods of one (1) year each, or to June 30, 2014, with an option fee to be paid for each Extension Option exercised; and

WHEREAS, effective July 1, 2014, Opera began paying Rent under the Ground Lease; and

WHEREAS, on December 15, 2014, the Ground Lease was further amended to address administrative issues related to the parties’ interim shared use of the Mercer Arena prior to construction commencement; and

WHEREAS, since execution of the Ground Lease, Opera has determined that constructing a new, more costly building would enable the addition of spaces supporting an increased focus on community and educational programs, allow for direct access to McCaw Hall at the stage level and provide more public amenities than originally envisioned; and

WHEREAS, Resolution 31628, approved by the Seattle City Council on November 23, 2015, expressed support for Opera’s enhanced project, states that: ...”the Mercer Arena has been

closed since 2003 due to seismic and code compliance deficiencies and currently produces no public benefits, and that although the Arena redevelopment to be undertaken by the Opera under the terms of lease will improve the facility, additional enhancements to the Arena will provide additional benefits to the City’s facility and to the vitality of the Seattle Center”; and

WHEREAS, Opera is constructing a new building with spaces supporting an increased focus on community and educational activities and providing additional public amenities and consistent with Resolution 31628, Opera has agreed to provide certain supplemental benefits over the term of the Ground Lease; and

WHEREAS, Opera has unique opportunities to contribute toward the City’s goals of racial equity and inclusiveness through its educational, outreach and programming efforts; and

WHEREAS, in addition to the new public amenities the building is expected to have a longer useful life and a higher residual asset value at the end of the Opera’s lease term; and

WHEREAS, pursuant to Resolution 31628, \$200,000 was appropriated in the 2016 City budget and \$4,800,000 of the funds will be proposed for inclusion in the City’s Capital Improvement Program in the 2017-2018 biennial budget, with payment contingent upon Opera’s compliance with requirements contained in Section 12 of the Ground Lease and further contingent upon Opera’s applying the City’s funding, together with other additional funds, to construct a building that satisfies the requirement of the Resolution by “exceeding the Opera’s obligations for redevelopment under the terms of the existing lease”;

NOW, THEREFORE, to address the requirements of Resolution 31628 and in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Article Numbers and Continued Effect of Mercer Arena Ground Lease Terms Not Amended

All Article and Section references herein are to the Article and Section numbers in the Ground Lease, as amended by the First and Second Amendments. In this Amendment, all references to the “Ground Lease” include the original Ground Lease and all amendments. All provisions of the Ground Lease that have not been modified by this Third Amendment remain in full force and effect.

2. Amendments to Mercer Arena Ground Lease

A. Subsection 1.10 Exhibits.

Subsection 1.10, Exhibits, is amended as follows:

1.10 Exhibits. The following exhibits are made a part of this Lease:

Exhibit 1.1.1 – Legal Description

Exhibit 1.1.2 – Premises Site Plan
Exhibit 12.1R – Conceptual Plan for Initial Improvements
Exhibit 18.1 – Insurance Requirements
Exhibit 34.1 – Memorandum of Ground Lease

B. Section 12. Initial Improvements and Subsequent alterations by Opera.

Section 12, Initial Improvements and Subsequent Alterations by Opera, is amended as follows:

12.1 Opera's Obligation to Undertake Improvements.

The parties acknowledge and agree that the renovation or replacement of Mercer Arena is a fundamental purpose of this Lease and Opera agrees to use commercially reasonable efforts to complete the Initial Improvements and to obtain a certificate of occupancy for the Permitted Use, subject to delays caused by Seattle Center or *force majeure* by December 31, 2019. Opera's conceptual plan for the Initial Improvements, contained in Exhibit 12.1R, is anticipated to cost approximately ~~(((\$40))\$60~~ million in hard and soft costs and currently contemplates ~~((is intended to include))~~ construction of an entirely new building ((roof and exterior walls)). ~~((At the conceptual design stage and p))~~ Prior to Seattle Design Commission design development ~~((initial))~~ review, Opera shall present its proposed plan for Opera's Improvements to the Parks, ~~((and))~~ Seattle Center, Libraries and Waterfront Committee of the Seattle City Council. The City Council shall endorse Opera's plan as presented or by resolution transmitted to the Design Commission, may provide comments and suggest modifications thereto. Thereafter, the specific terms and conditions of construction shall be contained in a separate construction agreement, the "Construction Agreement," that the parties shall negotiate and execute before Opera enters into a construction contract for the work. ~~((If Opera fails to commence the Initial Improvements by July 1, 2011, this Lease shall automatically terminate and, subject to the provisions of Section 9.3, Opera shall restore the Premises as nearly as possible to their condition existing as of the Effective Date, at Opera's expense, and the parties shall have no further rights or obligations with respect to one another arising out of or in connection with this Lease. If the Initial Improvements result in a change to the building footprint, then))~~ Upon completion of the Initial Improvements, the parties shall amend this Lease by appending hereto a revised Exhibit 1.1.2 that more accurately depicts the location of the building, as improved, on the Premises.

12.2 City Contribution to Initial Improvements.

Subject to City's appropriation of funds, City shall contribute five million dollars (\$5,000,000) for public amenities that Opera will construct as part of the Initial Improvements, which amenities are identified below and depicted in Exhibit 12.1R. Payment will be made in two phases, with the first phase a

payment of two hundred thousand dollars (\$200,000) due following execution of this Third Amendment to the Ground Lease and upon City's receipt of an invoice therefor from Opera. Provided the parties have executed the Construction Agreement described in Subsection 12.1 and the Opera has fully complied with the prerequisites for commencement of the Initial Improvements described in this Section 12, but in no event before the later of January 1, 2017 or commencement of construction of the Initial Improvements, City will disburse the remaining four million eight hundred thousand dollars (\$4,800,000) as provided in the Construction Agreement required under Section 12 of the Ground Lease.

The public amenities that Opera will construct shall include:

(a) Construction of a new building with total project budget of approximately \$60 million, an increase of \$20 million. The building shall include spaces which support the provision of community and educational activities by the Opera and physical connections with McCaw Hall at the stage level to provide additional operational synergies for Opera and the City.

(b) Design and construction of open space of approximately 6,000 sq. ft. on 4th Ave N/Jenkins Way from Mercer Street to Republican Street, with amenities to include landscaping, irrigation, screening, hardscape, lighting, environmental graphics, and other amenities.

(c) Design of exterior landscaping, irrigation, hardscape, lighting, environmental graphics and other amenities on the Mercer street frontage from Mercer Arena to the Kreielsheimer Promenade.

12.3 Conditions for Construction of Improvements.

Before commencing the Initial Improvements, Opera shall demonstrate to the reasonable satisfaction of the City's Finance Director that it has sufficient financial resources to complete the Initial Improvements in accordance with approved design documents and shall thereafter commence construction of such Initial Improvements and diligently prosecute such work to its completion.

Opera shall not make any alterations, additions or improvements in or to the Premises without first submitting to City professionally prepared plans and specifications for such work and obtaining City's prior written approval thereof. Except as provided in Subsection 12.2 of this Ground Lease, Opera covenants that it will cause all alterations, additions and improvements to the Premises, to be completed at Opera's sole cost and expense by a contractor approved by City and in a manner that (a) is consistent with City approved plans and specifications, the Construction Agreement, and any conditions reasonably imposed by City in connection therewith; (b) is in conformity with first-class, commercial standards; (c) includes acceptable insurance coverage for City's benefit; (d) does not affect the structural integrity of the Premises and/or Marion Oliver McCaw Hall or any of the Premises' systems; and (e) does not invalidate or otherwise affect the construction or any system warranty then in effect with respect to the Premises. Opera shall secure all governmental permits and approvals required for the Initial

Improvements and comply with all other applicable governmental requirements and restrictions applicable to the Initial Improvements. Except as provided in Section 17 with regard to concurrent negligence, Opera shall indemnify, defend and hold City harmless from and against all losses, liabilities, damages, liens, costs, penalties and expenses (including attorneys' fees, but without waiver of the duty to hold harmless) arising from or out of Opera's performance of such alterations, additions and improvements, including, but not limited to, all which arise from or out of Opera's breach of its obligations under the terms of this Section 12. Upon the expiration or termination of this Lease, all alterations, additions and improvements (expressly including all light fixtures; heating and ventilation units; floor, window and wall coverings; and electrical wiring), except Opera's or Subtenants' moveable trade fixtures and appliances and equipment not affixed to the Premises (including without limitation furniture, computers, point of sale systems and registers) and cabling and wiring for computers, telephones and other electronic equipment, shall become the property of City without any obligation on its part to pay for any of the same, unless City bond financing has been used in the construction of any improvements, in which case such improvements shall become City's property at the time they are constructed or installed. Opera shall not remove all or any portion of such improvements upon the termination of this Lease. Within ninety (90) days after the completion of any alteration, addition or improvement to the Premises, Opera shall deliver to City a full set of "as-built" plans of the Premises showing the details of all alterations, additions and improvements made to the Premises by Opera. The provisions of this paragraph shall apply to the Initial Improvements and, after the City issues a certificate of occupancy for the Initial Improvements, all subsequent alterations, additions or improvements to the Premises that, in the aggregate over any calendar year, are reasonably likely to result in total construction costs in excess of five hundred thousand dollars (\$500,000.00), as such amount is increased by the percentage increase of the Index (as such term is defined below) published most recently prior to the calendar year during which improvements are made compared to the Index published most recently prior to the Rent Commencement Date. Notwithstanding the foregoing, however, in the case of Minor Alterations, (i) the first sentence and clause (a) of the second sentence of this paragraph shall not apply, (ii) City hereby waives the right to approve Opera's contractor with respect to Minor Alterations, and (iii) Opera will deliver a set of "as-built" plans only if the extent or nature of the Minor Alterations is such that Opera retains the services of an architect to prepare plans and specifications with respect thereto. "Minor Alterations" means alterations, additions or improvements to the Premises (i) made subsequent to the Initial Improvements and (ii) which, when combined with other anticipated projects, is not reasonably likely to result in total construction cost expenditures of more than five hundred thousand dollars (\$500,000.00) in any calendar year, as such amount is increased by the percentage increase of the Index, published most recently prior to the calendar year during which improvements are made compared to the Index published most recently prior to the Rent Commencement Date and (iii) do not involve any shared systems or shared access with the City or any of its buildings in Seattle Center or any

building elements for which the City has major maintenance responsibility such as the roof and exterior walls or any building component or system for which City has major maintenance responsibilities under this Lease, such as the roof and exterior walls. Opera shall not intentionally divide improvement projects into discrete units of work, nor schedule them in such a manner, as to artificially bring them within the definition of Minor Alterations.

As used in this Lease, “Opera’s Improvements” means the Initial Improvements and any improvements to the Premises made subsequent to the date the Initial Improvements have been completed; and “Index” means the Consumer Price Index for All Urban Consumers, U.S. city average for all items (1982-84=100) published by the Bureau of Labor Statistics of the United States Department of Labor (the “Bureau”); provided, however, that (a) if the Bureau publishes a revised version of the Index, then the revised version shall be used, and (b) if the Index is discontinued, the parties shall follow any official consumer price index, whether so named or designated or not, issued by any authorized agency of the United States which supplants the Index and (c) if the Index is discontinued without being supplanted, the parties shall use any comparable general wholesale or retail price index for the United States reasonably selected by City as being the closest to the Index and reasonably approved by Opera.

Notwithstanding any other provisions of this Lease reserving to City portions of the Premises below Opera’s Improvements or more than 85 feet above the finished grade of the sidewalk on Mercer Street, nothing in this Lease is intended to prevent Opera from future expansion of the Initial Improvements from time to time to the extent such expansion would otherwise be allowed under then applicable law and/or zoning and is otherwise in compliance with applicable provisions of this Section 12, provided, however, that any expansion of the Initial Improvements into the ground (except for footings for a replacement building) or into the air rights reserved by Seattle Center would be subject to negotiation with City and may require the payment of additional Base Rent appropriate in view of the nature and use of the expansion improvements.

C. Section 38 Public Benefits

Section 38, Public Benefits, is amended as follows:

38. Public Benefits. City's willingness to enter into this Lease with Opera is predicated, in part, on the nature of Opera’s business and the compatibility of such business with the use of the remainder of Seattle Center and the benefits accruing to the public through Opera’s use of the Premises. The parties agree that, with respect to the Initial Improvements, anticipated benefits include (i) Opera’s capital investment in the Premises, (ii) the sustainable technologies that will be utilized in development of the site, ~~((and))~~(iii) the expected LEED certification for the Premises, and (iv) Opera’s provision of the design and

installation of the landscaping, hardscaping and other improvements identified in Subsection 12.2. Opera shall report to the City regarding implementation of such benefits within 60 days of receipt of the Certificate of Occupancy for the Initial Improvements. In addition, continuously throughout the Lease Term, Opera agrees to provide the following benefits, or an equivalent replacement approved by the Director, and to submit an annual report thereof to the Director as required by ~~((Section))~~ Subsection 5.1: (i) education programs for students, reported by the number and age groups of students served; (ii) education events, activities and outreach efforts provided to the public by Opera including efforts to serve persons who historically have been underrepresented in Opera audiences which may include outreach efforts, and provision of free or discounted tickets, scholarships, and culturally relevant programming, reported by the number, attendance or use and type ((and)) of effort, and programming((-event)); (iii) Opera employment, reported by number and type of Opera employees, both full and part-time; (iv) if and to the extent and for such periods as Opera has no need for the space itself, collaboration with other groups to make office and rehearsal space available to activate and invigorate the Mercer corridor; and (v) incubation programs designed to encourage and support diversity in the dramatic arts including artistic and back and front of house employment opportunities; reported by the number, attendance and type of program; (vi) artistic and educational efforts designed to address issues of race and social justice reflective of a broad cultural context reported by number and type of efforts; and (vii) when relevant, other collaborative efforts of benefit to the public and Seattle Center.

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

CITY OF SEATTLE

SEATTLE OPERA

By: _____
Robert Nellams, Director
Seattle Center Department

By: _____
Aidan Lang, General Director
Seattle Opera

Date: _____

Date: _____

STATE OF WASHINGTON)

COUNTY OF KING) ss. (Acknowledgement for City)
)

On this ____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of the Seattle Center Department of the **CITY OF SEATTLE**, the entity that executed the foregoing instrument as City; and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and that he was authorized to execute said instrument for said entity.

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

[Signature]

[Printed Name]

NOTARY PUBLIC in and for the State of Washington residing at _____
My commission expires _____.

STATE OF WASHINGTON)

COUNTY OF KING) ss. (Acknowledgement for Opera)
)

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

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

[Signature]

[Printed Name]

NOTARY PUBLIC in and for the State of Washington residing at _____
My commission expires _____.

STATE OF WASHINGTON – KING COUNTY

--SS.

340356
CITY OF SEATTLE CLERKS OFFICE

No. 125088,89,90,91,92

Affidavit of Publication

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

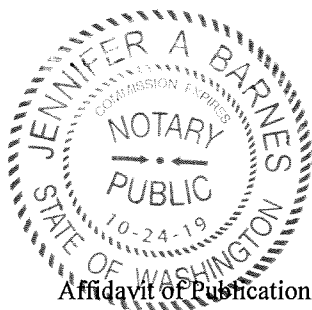
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLE ONLY ORDINANCES

was published on

08/08/16

The amount of the fee charged for the foregoing publication is the sum of \$ 111.65, which amount has been paid in full.



Affidavit of Publication

A handwritten signature in dark ink, appearing to be "M. D. C.", written over a horizontal line.

Subscribed and sworn to before me on

08/08/2016

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

Title Only Ordinances

The full text of the following legislation, passed by the City Council on July 25, 2016 and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Ordinance 125088

Council Bill 118726

AN ORDINANCE relating to the Mercer Arena; authorizing the Director of the Seattle Center Department to execute a third amendment to the Mercer Arena Ground Lease between the City of Seattle and Seattle Opera; and lifting a budget proviso.

Ordinance 125089

Council Bill 118730

AN ORDINANCE relating to the Central Waterfront Project, authorizing the execution of a Memorandum of Agreement concerning funding for the Parks Central Waterfront Piers Rehabilitation project (K732493) between The City of Seattle and the Friends of Waterfront Seattle; authorizing the Director of the Seattle Department of Transportation to accept non-City funds on behalf of the City; amending Ordinance 124927, which adopted the 2016 Budget, including the 2016-2021 Capital Improvement Program (CIP); changing appropriations to the Seattle Department of Transportation and the Seattle Department of Parks and Recreation; revising allocations for certain projects in the 2016-2021 CIP; and ratifying and confirming certain prior acts.

Ordinance 125090

Council Bill 118734

AN ORDINANCE granting SP Greenwood LLC permission to construct and maintain a public art installation on a portion of 1st Avenue Northwest, southwest of the intersection with Northwest 85th Street, for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; and providing for the acceptance of the permit and conditions.

Ordinance 125091

Council Bill 118735

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the execution of a Partnership Agreement for the Activation and Programming of Westlake Park and Occidental Square; and ratifying and confirming certain prior acts.

Ordinance 125092

Council Bill 118738

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof. Resolution 31678

Date of publication in the Seattle Daily Journal of Commerce, August 8, 2016.

8/8(3-40356)