

FINANCING AGREEMENT

**AGREEMENT BETWEEN KING COUNTY AND THE
WASHINGTON STATE MAJOR LEAGUE BASEBALL STADIUM
PUBLIC FACILITIES DISTRICT**

This Agreement (the "Agreement") is made and entered into this 18th day of March, 1996, by and between King County (the "County") and the Washington State Major League Baseball Stadium Public Facilities District (the "District"), collectively referred to as the "Parties."

FINDINGS

The Washington State Major League Baseball Stadium Public Facilities District, established pursuant to RCW 36.100 and King County Ordinance 12000, has initiated efforts to develop a major league baseball ballpark in the City of Seattle (the "City"); and

King County Ordinance 12000 requires the execution of two agreements, one between the District, the County and the City concerning permitting and environmental review of the new ballpark, and one between the District and the County concerning stadium financing structure and avoiding placing the County's general fund and bond rating at unreasonable risk; and

Additional issues concerning stadium development have been identified by the District and the County which are appropriate matters to be addressed in a separate agreement; and

The District and the County wish to execute such agreements as expeditiously as possible, consistent with the requirements of Ordinance 12000, and in order to facilitate development of the ballpark.

AGREEMENT

1. PURPOSE

This Agreement is intended to (1) enable the County and the District to cooperate in the expeditious development of a new major league baseball ballpark with natural turf and retractable roof or canopy, together with associated parking facilities (hereinafter "Ballpark"), (2) address certain requirements of Ordinance 12000 concerning project financing, (3) provide for transfer of funds to the District, and (4) provide for acquisition of property necessary or useful to the Ballpark project; (5) allow for District participation in County benefit programs; (6) provide for cooperative purchasing; and (7) the exercise of alternative procurement procedures as authorized under RCW 39.10.

2. DURATION

This Agreement shall be effective upon the signature of both Parties and shall remain in effect until terminated as provided herein.

3. ADMINISTRATION

All tasks and services undertaken pursuant to this Agreement shall be administered on behalf of the County by the Chief of Staff for the County Executive, Kevin M. Raymond, who will represent the County in administering tasks covered by this Agreement, and on behalf of the District by the District Executive Director (the "District Executive Director"), who will represent the District in administering tasks covered by this Agreement. The District Executive Director shall serve as the "Administrator."

4. PROJECT FINANCING

4.1 The County agrees to issue general obligation bonds for the purpose of funding the construction of a ballpark by the District if the Metropolitan King County Council by ordinance determines that such a bond will not likely result in: (i) the County's current expense fund having to pay any portion of the ballpark's debt service; or (ii) the reduction of the County's bond rating, based upon the revenue sources authorized by chapter 1, 1995 laws of Washington, 3rd special session (EHB 2115). Any such issuance of debt must be authorized by County ordinance. The County and the District agree that in structuring the stadium financing they shall give substantial weight to the stadium financing plan developed by the Independent Financial Review Committee.

4.2 The District and the County agree to coordinate and cooperate with the Independent Financial Review Committee established under Ordinance 12000, in the development of a stadium financing plan that maximizes resources and protects the County's bond rating and current expense fund. The District accepts and concurs in the standards established by Ordinance 12000 for a stadium financing plan and agrees that any such plan shall avoid placing the current expense fund or bond rating of the County at unreasonable risk.

4.3 As soon as practicable, but no later than June 30, 1996, the County shall appoint the members of the Independent Financial Review Committee created by Ordinance 12000.

4.4 At the request of the District the County shall, consistent with this section and in accordance with applicable County ordinances and Charter provisions, appropriate and provide to the District any revenue received by, distributed to, collected by or collected on behalf of the County pursuant to EHB 2115 and Ordinance 12000, to be used by the District for such purposes as are set forth in EHB 2115. An initial appropriation through the earlier of June 30, 1997 or the issuance of County bonds for Ballpark construction shall allow for the District's use of the revenue for all reasonably necessary preconstruction costs of the Ballpark, including, but not limited to, District preconstruction operating costs, architectural, engineering, environmental, legal services and land acquisition. Revenues received by the County shall be credited to the fund established for the District and accrue interest from the date of receipt by the County.

5. REAL ESTATE ACQUISITION

The District shall be responsible for the acquisition of real property, including all services related thereto, for the construction of the Ballpark, except for property that the County assembles, contributes, conveys or acquires by eminent domain as provided for under Section 201(6) of EHB 2115. The District agrees to reimburse the County the purchase price, together with reasonable costs of acquisition, for any County property not required to be contributed to the District. Transfer of title to property shall occur at a time and in the manner agreed to between the parties.

The County will use its best efforts to expeditiously perform its responsibilities for real estate acquisition as set forth herein consistent with Project schedule requirements, applicable state law, County ordinance and this Agreement.

6. FORCE MAJEURE

Each party shall not be responsible for its failure to comply with the terms and obligations of the Agreement as described herein where such performance is rendered impossible or impracticable due to strikes, walk-outs, acts of God, inability to obtain labor, materials, or services, government restrictions, enemy action, civil commotion, fire, unavoidable casualty, or similar causes beyond the control of the parties.

7. ACCESS TO ALTERNATIVE PROCUREMENT PROCESS

The County agrees to expeditiously undertake and complete by May 1, 1996 the public notification and review process required under RCW 39.10.030 as required under RCW 39.10.040(3) to enable the District to access an alternative public works contracting procedure, if such process supports a final determination by the County Council that use of an alternative procedure is consistent with the requirements of RCW 30.10.030(1).

8. COOPERATIVE PURCHASING AND PROVISION OF SERVICES

The County further agrees that in contracting for the purchase of goods and services for the County or in providing such goods and services, it will also contract on behalf of or provide goods and services to the District to the extent permitted by law and agreed upon by the Parties, if requested by the District. Before any such contracting can take place, the District must approve the specific goods or scope of services to be purchased and the prices at which they are to be purchased. Thereafter, the vendors shall invoice the District separately and King County shall not be obligated for purchases other than those required for its own use.

9. PARTICIPATION IN COUNTY BENEFIT PROGRAMS

Consistent with applicable laws, and provided that the plan holders/providers/insurance carriers agree and there is no financial impact on the County, the County agrees that the District may contract with the County for participation by District employees in certain County's employee benefit plans. These plans shall be limited to medical, vision, dental, life insurance and disability

insurance. Any District employee wishing to participate in any such plan shall be subject to the same eligibility requirements applicable to County employees. The Parties agree that the District may, subject to plan requirements and with reasonable notice, withdraw from the such plans if and when the District decides to obtain employee benefits through another source.

10. INDEMNIFICATION

10.1 In executing this Agreement, the County does not assume liability or responsibility for, or in any way release the District from, any liability or responsibility which arises in whole or in part from the existence, validity or effect of District resolutions, rules or regulations, irrespective of the County's involvement in assisting with the drafting of such documents. If any cause, claim, suit, action or administrative proceeding is commenced related to the validity, effect or application of such resolutions, rules or regulations, the District shall defend the same at its sole expense and if judgment is entered or damages are awarded against the District, the County, or both, the District shall satisfy the same, including all chargeable costs and attorney's fees.

10.2 The District shall protect, defend, indemnify and hold harmless the County and its officers, agents, and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, to the extent caused by or resulting from the performance of this Agreement by the District or any act or omission of the District, its officers, agents, and employees.

10.3 The County shall protect, defend, indemnify and hold harmless the District and its officers, agents, and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, to the extent caused by or resulting from the performance of this Agreement by the County or any act or omission of the County, its officers, agents, and employees.

11. AMENDMENTS

The Agreement may be amended at any time by mutual written agreement of the Parties, provided that amendments to Section 4 or any other amendments that in the judgment of the County Executive would place the County at significant risk shall be approved by the Council.

12. ENTIRE AGREEMENT

This Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded.

13. ADMINISTRATOR

13.1 The Parties may each appoint additional representatives to review contract performance and resolve any problems which cannot be dealt with by the Chief of Staff for the County Executive and District Executive Director. Each party shall notify the other in writing of

its designated representatives. The Chief of Staff for the County Executive and District Executive Director will meet as needed, with two (2) days' written notice to the other.

13.2 Any problem which cannot be resolved by the Parties' designated representatives shall be referred to the Chair of the District Board and the County Executive, who may resolve the issue with or without using the dispute resolution provisions of Section 18 of this Agreement.

14. ESTABLISHMENT AND MAINTENANCE OF RECORDS

Each party shall maintain records which accurately reflect all actions taken and services provided pursuant to this Agreement and all direct and indirect costs incurred in the performance of this Agreement.

15. ACQUISITION AND DISPOSAL OF REAL AND PERSONAL PROPERTY

The Parties agree to keep all real and personal property separate and to follow their own policies and procedures for acquisition and disposal.

16. INSURANCE

The District agrees to secure and maintain for the duration of this Agreement commercial general liability insurance at least as broad as Insurance Services Organization form number CG0001 ed 11-88, with limits not less than \$1,000,000 combined single limit per occurrence and for those policies with an aggregate limit, a \$2,000,000 aggregate. Such insurance shall include coverage for Public Officials Errors and Omissions and shall include King County as an additional insured. The District shall furnish the County with certificates of insurance and endorsements required by this Agreement. The County reserves the right to require complete, certified copies of all required insurance policies at any time. Any deductibles or self-insured retentions applicable to any insurance policy required in this Agreement shall not limit or apply to the District's liability to the County and shall be the sole responsibility of the District.

By requiring such insurance, the County shall not be deemed or construed to have assessed the risks that may be applicable to the District under this Agreement. The District shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

17. TERMINATION

This Agreement may be terminated upon mutual agreement of the parties.

18. DISPUTE RESOLUTION

The Parties shall use good faith efforts to resolve all claims, disputes and other matters in question between the Parties arising out of or relating to this Agreement, through nonbinding arbitration or mediation. If the Parties cannot resolve their dispute pursuant to nonbinding arbitration or mediation as aforementioned, jurisdiction and venue for resolving any dispute arising out of or in

connection with this Agreement shall be in the Superior Court of the State of Washington in King County.

19. ASSIGNMENT

Neither Party shall assign this Agreement without the written consent of the other. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their successors and permitted assigns.

20. GOVERNING LAW

This Agreement shall be governed by the internal laws of the State of Washington.

21. SEVERABILITY

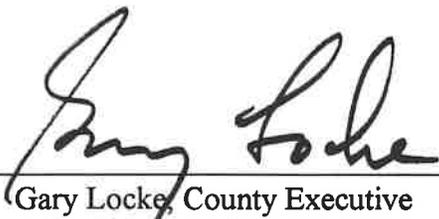
If any provision in this Agreement is held by any court of competent jurisdiction to be unenforceable, the remaining terms and provisions unaffected thereby shall remain in full force and effect.

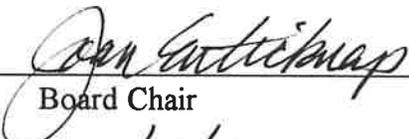
22. NO THIRD PARTY BENEFICIARIES

This Agreement is solely for the benefit of the District and the County, and no other person may acquire or have any right hereunder by virtue hereof.

KING COUNTY

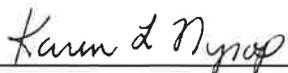
WASHINGTON STATE MAJOR LEAGUE
BASEBALL STADIUM PUBLIC
FACILITIES DISTRICT

By 
Gary Locke, County Executive
3/15/96
Date

By 
Board Chair
3/18/96
Date

Approved as to form:

Approved as to form:


King County Prosecuting Attorney
3 - 13 96
Date


District Attorney
3/18/96
Date

**AMENDMENT NO. 1 TO AGREEMENT (FINANCING AGREEMENT)
BETWEEN KING COUNTY AND THE WASHINGTON STATE MAJOR
LEAGUE BASEBALL STADIUM PUBLIC FACILITIES DISTRICT.**

WHEREAS, on March 18, 1996, King County ("County") and the Washington State Major League Baseball Stadium Public Facilities District ("District") entered into an agreement which among other things covered Project Financing (Exhibit A attached); and

WHEREAS, in order to maintain District cash flow and balance the CIP project fund the County and District now wish to amend said Agreement.

NOW THEREFORE, said Agreement is hereby amended by adding the following to Section 4 of the Agreement:

County agrees to make an interfund transfer from County portion of the King County investment pool of up to \$8,186,000 to Fund 3273 Public Facilities District Transfer Subfund; Project No. 327280; Provided, the King County Executive Finance Committee shall only authorize the transfer of funds after it determines that the transfer is necessary to maintain the District's cash flow and balance the Fund 3273 Public Facilities District Transfer Subfund; Project No. 327280. The Parties agree that the County shall be reimbursed with interest at the interfund borrowing rate for any interfund transfer from the taxes and fees authorized by EHB 2115 and the proceeds of construction bonds issued for construction of the stadium. The Parties agree that repayment of this transfer shall be made from the first available proceeds of the sale of bonds. In consideration of this interfund transfer District agrees that in the event bonds are not issued the District shall, upon the County's request, promptly transfer to the County any district assets purchased with funds from the interfund transfer of value sufficient to reimburse any interfund transfer and interest.

All other terms and conditions not herein amended shall remain in full force and effect.

KING COUNTY

BY 

Ron Sims, County Executive
2/18/97

Date

Approved as to form:

King County Prosecuting Attorney

WASHINGTON STATE MAJOR LEAGUE
BASEBALL STADIUM PUBLIC
FACILITIES DISTRICT

BY 

Board Chair
2/5/97

Date

Approved as to form:



District Attorney

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AMENDMENT NO. 2 TO AGREEMENT (FINANCING AGREEMENT) BETWEEN KING COUNTY AND THE WASHINGTON STATE MAJOR LEAGUE BASEBALL STADIUM PUBLIC FACILITIES DISTRICT.

WHEREAS, on March 18, 1996, King County ("County") and the Washington State Major League Baseball Stadium Public Facilities District ("District") entered into an agreement which among other things covered Project Financing (Exhibit A attached); and

WHEREAS, the Parties desire to amend the Agreement, contingent upon approval by the Metropolitan King County Council and the District Board of Directors, to add covenants regarding the admissions tax described in RCW 36.38.010(3)(b) and the operation of the Ballpark Parking Facility.

NOW, THEREFORE, said Agreement is hereby amended by adding the following to Section 4 of the Agreement:

4.5 County covenants and agrees, to the extent permitted by law, that it shall not impose that portion of the admissions tax described in RCW 36.38.010(3)(b). Nothing in this covenant shall require or obligate the County not to impose the admissions tax described in RCW 36.38.010(3)(a).

4.6 The District agrees to use its best efforts, consistent with the Ballpark Operations and Lease Agreement between the District and The Baseball Club of Seattle, L.P. ("Club"), to work with the Club to make the Ballpark Parking Facility reasonably available on commercially reasonable terms for public use during events taking place in the King County Domed Stadium subject to priority use of the Parking Facility for Ballpark needs.

All other terms and conditions not herein amended shall remain in full force and effect.

KING COUNTY

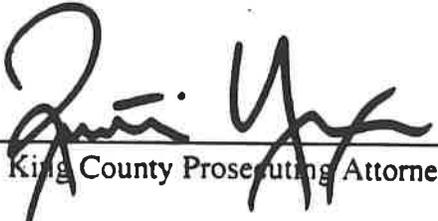
WASHINGTON STATE MAJOR LEAGUE
BASEBALL STADIUM
PUBLIC FACILITIES DISTRICT

By: 
Gary Locke, County Executive

By: 
Board Chair

11/15/97
Approved as to form:

Approved as to form:


King County Prosecuting Attorney

District Attorney

**THIRD AMENDMENT TO AGREEMENT BETWEEN KING COUNTY AND THE
WASHINGTON STATE MAJOR LEAGUE BASEBALL STADIUM PUBLIC
FACILITIES DISTRICT**

This Third Amendment to the March 18, 1996 Financing Agreement ("Third Amendment") by and between King County (the "County") and the Washington State Major League Baseball Stadium Public Facilities District (the "PFD"), collectively referred to as the "Parties", shall be effective upon the authorized signatures of both Parties.

FINDINGS

The Washington State Major League Baseball Stadium Public Facilities District, established pursuant to RCW 36.100 and King County Ordinance 12000, has initiated efforts to develop a major league baseball ballpark in the City of Seattle (the "City"); and

The County entered into a Financing Agreement dated March 18, 1996 ("Financing Agreement") with the PFD for the development of a major league baseball stadium in the City of Seattle ("City"); and

In accordance with Paragraph 11 of the Financing Agreement, the County and the PFD wish to amend the Financing Agreement to in order to maintain the PFD's cash flow and balance the CIP project fund, pursuant to the terms and conditions of this Third Amendment,

NOW, THEREFORE, in consideration of the promises, covenants and considerations set forth herein, the County and the PFD hereby agree to amend the Financing Agreement to add the following new sub paragraph to Section 4:

4.7 County agrees to make an interfund transfer from County portion of the King County investment pool of up to \$25,221,104 (in addition to the earlier \$8,186,000 interfund loan amount specified in Amendment 1 to the Financing Agreement,) to Fund 3273 Public Facilities District Transfer Subfund; Project No. 327280; Provided, the King County Executive Finance Committee (Committee") shall only authorize the the transfer of funds, additional to those funds previously drawn as authorized by Amendment 1 to the Financing Agreement, after the Committee determines that the transfer is necessary to maintain the District's cash flow and balance the Fund 3273 Public Facilities District Transfer Subfund; Project No. 327280. The Parties agree that the County shall be reimbursed with interest at the interfund borrowing rate for any interfund transfer from the taxes and fees authorized by EHB 2115 and/or the first available proceeds from the sale of bonds issued for construction of the stadium. In consideration of this interfund transfer, the District agrees that in the event bonds are not issued the District shall, upon the County's request, promptly transfer to the County any District assets purchased with funds from the interfund transfer of value sufficient to reimburse any interfund transfer and interest.

EXCEPT AS SET FORTH HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE FINANCING AGREEMENT ARE TO REMAIN IN FULL FORCE AND EFFECT.

In witness whereof, the Parties hereto have accepted this Third Amendment .

KING COUNTY

WASHINGTON STATE MAJOR LEAGUE
BASEBALL STADIUM PUBLIC
FACILITIES DISTRICT

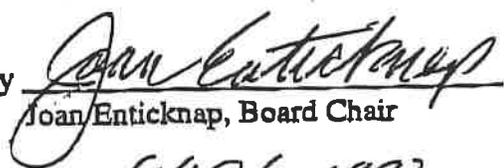
By


Ron Sims, County Executive

3-10-97

Date

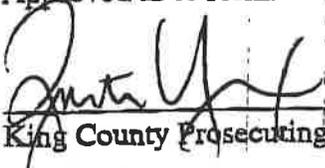
By


Joan Enticknap, Board Chair

Feb 26, 1997

Date

Approved as to form:


King County Prosecuting Attorney

3/10/97

Date

Approved as to form:


PFD Attorney

Feb 26, 1997

Date

J:\RL\034252-001\1\AMA\0327.DOC

Filed For Record at Request of:

W. J. Martin, Secretary

AFTER RECORDING RETURN TO:
King County Property Services Division
500A King County Administration Building
500 Fourth Avenue
Seattle, WA 98104

Title of Document: Use Agreement

Grantor: King County

Grantee: Washington State Major League Baseball Stadium Public Facility District

Legal Description: Portion of Block 288 & 322, Seattle Tide Lands

Tax Parcel No.: 766620-6483

**FOURTH AMENDMENT TO AGREEMENT BETWEEN KING COUNTY AND THE
WASHINGTON STATE MAJOR LEAGUE BASEBALL STADIUM PUBLIC
FACILITIES DISTRICT**

This Fourth Amendment to the March 18, 1996 Financing Agreement ("Fourth Amendment") by and between King County (the "County") and the Washington State Major League Baseball Stadium Public Facilities District (the "PFD"), collectively referred to as the "Parties" shall be effective upon the authorized signatures of both Parties.

FINDINGS

The Washington State Major League Baseball Stadium Public Facilities District, established pursuant to RCW 36.100 and King County Ordinance 12000, has initiated efforts to develop a major league baseball ballpark in the City of Seattle (the "City"); and

The County entered into a Financing Agreement dated March 18, 1996 ("Financing Agreement") with the PFD for the development of a major league baseball stadium in the City of Seattle ("City"); and

RCW 82.14.360(6) requires the County to assemble such real property as the PFD determines to be necessary as a site for the baseball stadium and to contribute to the PFD certain property that is owned by the County which is necessary for that purpose; and

In accordance with Section 11 of the Financing Agreement, the County and the PFD wish to amend the Financing Agreement to transfer to the PFD certain County-owned real property

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described below ("Property"), pursuant to the terms and conditions of this Fourth Amendment and as required by law; and

The County is currently allowing the PFD beneficial use of the Property preliminary to construction of the stadium pursuant to a special use permit; and

The PFD and the County wish to execute such Fourth Amendment to transfer the Property as expeditiously as possible, consistent with the requirements of Ordinance 12000 and state law, to facilitate development of the ballpark.

NOW, THEREFORE, in consideration of the promises, covenants and considerations set forth herein, the County and the PFD hereby agree to amend the Financing Agreement to add the following new Section 22:

22. PROPERTY TRANSFER

Pursuant to Ordinance 12000 and Section 201(6) of Engrossed House Bill 2115 codified as RCW 82.14.360(6), the County hereby agrees to transfer to the PFD for the sole purpose of constructing and operating a major league baseball stadium and parking facility ("Ballpark") fee title to the Property as described on Exhibit A attached hereto. Fee title shall be transferred by a statutory warranty deed within ten (10) days of the date of receipt by the PFD of no less than 100 million dollars in proceeds from bonds issued by the County for the Ballpark, unless the transfer of the Property is enjoined by a court of competent jurisdiction.

22.1 The PFD acknowledges that the State of Washington is contemplating making road improvements along the South Atlantic Street boundary of the Property. The Parties agree that should any part of the Property be acquired by the State for this purpose the County, at its election, shall either be entitled to payment of an amount developed by ratio of the amount of land acquired by the State over total square footage of the Property times \$9,102,705 plus an annual escalation as defined below or be entitled to credit such amount as local share for matching purposes for state or federal grants related to such road improvements.

The annual escalation shall be calculated using the Consumer Price Index for All Urban Consumers (CPI-U), Seattle-Tacoma, All Items (1982-1984) = 100) issued by the Bureau of Labor Statistics of the United States Department of Labor. If the CPI-U ceases to use the 1982-1984 average equaling 100 as the basis of calculation, or if a change is made in the term or number of items contained in the CPI-U, or if the CPI-U is altered, modified, converted or revised in any other way, then the determination of the CPI change shall be made with the use of such conversion factor, formula or table for converting such index as may be published by the Bureau of Labor Statistics. If the CPI-U is no longer published by the Bureau of Labor Statistics, then any substitute or successor index published by said Bureau or other governmental agency of the United States will be used, as shall be agreed upon by the PFD and the County. For the purposes of this subsection, the Parties agree that the date that the annual escalation, as defined

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above shall be applied commencing for calendar year 1993 through the calendar year in which the payment required under these subsections is made to the County.

22.2 Notwithstanding the date when title to the Property transfers, the PFD shall have the right to make beneficial use of the Property on execution of this Fourth Amendment.

22.3 Until the date of "Substantial Completion" of the Ballpark, as defined at page 10 of the Ballpark Operations and Lease Agreement between the PFD and the Baseball Club of Seattle ("Mariners"), is achieved, if the PFD Board takes formal action to abandon a Ballpark project at a site including the Property, the PFD shall either return the Property to the County with the County's prior concurrence or shall pay the County \$9,102,705 plus an annual escalation as set forth in subsection 22.1.

22.4 Additionally, if following Substantial Completion of the Ballpark, and during the period of time the bonds referenced in this section are outstanding, title to the Property is voluntarily or involuntarily transferred to a private party, then the PFD shall pay the County \$9,102,705 plus an annual escalation as set forth in subsection 22.1.

22.5 The financial obligations set forth above in subsections 22.1, 22.3, and 22.4 are intended to survive any transfer of title from the County to the PFD and shall be recorded along with the deed.

22.6 The PFD has inspected the Property and has been provided a copy of a soils report prepared by RZA AGRA, Inc., commissioned by the County in 1992, as well as an August 1995 report compiled by the County as part of the Kingdome Renovation Project regarding the storage of excavated soils from the Kingdome Pavilion as well as the stockpiling of K-13 acoustical debris and sandblasting waste from the Reroofing Project at the Kingdome. The PFD is aware of potential environmental concerns raised in these reports. Based on these reports, the PFD understands and agrees that the Property is taken for use by the PFD on an "as is" basis and that the County has no obligation to the PFD to make any changes, improvements, or to incur any expenses whatsoever for maintenance, repair or clean-up, including removal of any Hazardous Substances or contaminated soils.

22.7 With respect to the use of the Property by the PFD before and after transfer of title pursuant to this Fourth Amendment, the following indemnification and hold harmless provisions shall apply.

A. Except to the extent of the County's negligence, and to the maximum extent permitted by law, the PFD agrees, for itself, its successors, and assigns, to defend, indemnify and hold harmless the County, its officials, employees and agents, from and against liability for all claims, demands, suits, and judgment, including costs of defense thereof, for injury to persons, death or property damage which is caused by or results from the PFD's exercise of its rights and privileges granted by this Agreement. The PFD's obligations under this section shall also include, but not be limited to:

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- (1) The duty to promptly accept tender of defense under this subsection and to provide defense to the County at the PFD's own expense;
- (2) Indemnification of the County for claims made by PFD's own employees, agents, contractors or consultants unless injuries or death or property damage results from the negligence of the County. For this purpose, by mutual negotiation the PFD hereby waives as to the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW as adopted or hereinafter revised;
- (3) To reimburse the County for any necessary and additional out-of-pocket expenses, including reasonable fees for retained attorneys or costs incurred in the enforcement of any part of this Fourth Amendment within thirty (30) days upon receiving written notice and a detailed accounting of the expenses incurred, provided the County previously advised the PFD in writing that such expenses were going to be incurred;
- (4) Indemnification of the County for any response or remedial action costs, and/or natural resource damages recoverable pursuant to 42 U.S.C. Sec. 9607 and/or RCW Ch. 70.105D.040, as now existing or hereafter amended, arising out of the release or threat of release of a Hazardous Substances (as defined below) existing on or emanating from the Property as of the date of title transfer and including the previously referenced Kingdome Pavilion site soils, K-13 debris and sandblasting residue but excluding any Hazardous Substance previously deposited on the Property by the County and not identified by the County to the PFD prior to execution of this Fourth Amendment;
- (5) Indemnification of the County against any and all claims, liabilities, damages, and expenses asserted against the County by a third party including without limitation any agency or instrumentality of the federal, state or local government, for contribution pursuant to 42 U.S.C. Sec. 9613 and RCW Ch. 70.105D (if a right of contribution is provided for thereunder), as now existing or hereafter amended, arising out of or relating to the release, or threatened release, of a Hazardous Substance (as defined below) existing on or emanating from the Property as of the date of transfer of title, except for Hazardous Substance previously deposited thereon by the County.

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For the purposes of this Agreement the definition of Hazardous Substance includes:

- B. (1) Any toxic substances or waste, sewage, petroleum products, radioactive substances, medicinal, bacteriological, or disease-producing substances.
- (2) Any dangerous waste, hazardous waste, or hazardous substance as define in:
- (a) Comprehensive Environmental Response, Compensation and Liability Act of 1980, as now or hereinafter amended (42 U.S.C. § 9610 et seq.);
 - (b) Resource Conservation and Recovery Act, as now or hereafter amended (42 U.S.C. § 6910 et seq.);
 - (c) Washington Model Toxics Control Act, as now or hereinafter amended (RCW Chs. 70.105, 70.105A and 70.105D); and
 - (d) Regulations, administrative rulings or direction which implement these statutes; or
- (3) Any pollutants, contaminants, substances, as defined above, posing a danger or threat to public health or welfare, or to the environment, which are regulated or controlled by any federal, state and local laws and regulation, as now or hereafter amended.

C. To the maximum extent permitted by law, King County agrees, for itself, its successors, and assigns, to defend, indemnify and hold harmless the PFD, its officials, employees and agents, from and against liability for all claims, demands, suits, and judgment, including costs of defense thereof, for injury to persons, death or property damage which is caused by, or results from King County's exercise of its rights and privileges granted by, or its obligations pursuant to, this Fourth Amendment.

D. The indemnification, hold harmless obligations contained herein shall survive the expiration or termination of this Fourth Amendment.

22.8 The County agrees to immediately notify the PFD of any claim made against the County regarding the Property if it relates to the PFD's use of the Property pursuant to this Fourth Amendment. Such notice shall be in writing sent by registered mail at PFD's address as stated in the Financing Agreement no later than ten (10) days of receipt of the claim by King

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County. The County shall not be required to pay rent on, demolish, remove, or pay the costs of demolition or removal of any structures or other improvements, fixtures or equipment remaining on the Property, except that the County shall be responsible for relocating the fixtures and equipment related to operation of the Kingdome.

22.9 As of the date of beneficial use, the PFD shall be responsible to pay all taxes and assessments levied against the Property and all costs, expenses, fees, services, and charges of all kinds for heat, light, water, gas, and telephone, and for all other public utilities used on said Property so that the same shall not become a lien against the Property. The County agrees to notify the PFD of any claim for payment of such taxes, assessments or for such charges by utilities made against the County after the transfer of beneficial use to the PFD.

If the PFD fails to pay any obligations, fees, taxes or assessments, the County will mail notice to the PFD of its failure to pay. Twenty (20) days after mailing notice, if the PFD's obligation remains unpaid, the County may pay these obligations at the PFD's expense. Upon written notification to the PFD of any costs incurred by the County under this section, the PFD will reimburse the County within twenty (20) days. Nothing herein shall be deemed to prohibit the PFD from having the right, at its own expense, in its own name and/or in the name of the County, to object to the legality or validity of any tax or assessments on the Property or improvements thereon.

22.10 The Parties agree that this Fourth Amendment represents the complete expression of the terms hereto and any oral or written representations or understandings not incorporated herein are excluded. Both Parties recognize that time is of the essence in the performance of the provisions of this Fourth Amendment. Waiver of any default shall not be deemed to be waiver of any subsequent default. Waiver of a breach of any provision of this Fourth Amendment shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Fourth Amendment or the Financing Agreement, unless stated to be such through written approval by the County.

22.11 No provision of this Fourth Amendment precludes a Party from pursuing any other remedies for the other Party's failure to perform its obligations.

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22.12 If any term or provision of this Fourth Amendment or the application of any of its term or provision to any person or circumstance is invalid or unenforceable, the remainder of this Fourth Amendment, or the application of the terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and will continue in full force.

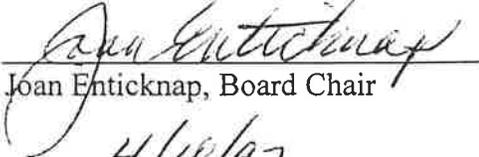
EXCEPT AS SET FORTH HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE FINANCING AGREEMENT ARE TO REMAIN IN FULL FORCE AND EFFECT.

In witness whereof, the Parties hereto have accepted this Fourth Amendment .

KING COUNTY

WASHINGTON STATE MAJOR LEAGUE
BASEBALL STADIUM PUBLIC
FACILITIES DISTRICT

By 
Ron Sims, County Executive
7-22-97
Date

By 
Joan Enticknap, Board Chair
4/10/97
Date

Approved as to form:

Approved as to form:


King County Prosecuting Attorney
4-22-97
Date

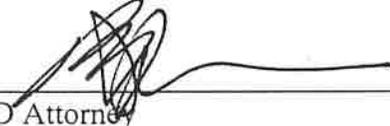

PFD Attorney
4/10/97
Date

EXHIBIT A

PARCEL A:

All of Lots 1 through 11, inclusive, Block 322, Seattle Tide Lands, according to the official maps thereof filed in the Office of Commissioner of Public Lands in Olympia, Washington:

TOGETHER WITH that portion of Lots 12 through 14, inclusive, Block 322, and that portion of Lots 1 through 12, inclusive, Block 288, of said Seattle Tide Lands lying Westerly and Northerly of the following described line:

Beginning at a point on the North line of Lot 1, Block 288, which lies 85.00 feet East of the N.W. corner of Lot 1, Block 288; thence South parallel to the West line of Block 288, a distance of 465.36 feet to the beginning of a tangent 330.00 foot radius curve to the right; thence Southerly and Southwesterly along said curve through a central angle of 30-00-00 an arc length of 172.79 feet; thence South 30-00-00 West 153.89 feet; thence North 60-00-00 West 67.61 feet to the beginning of a tangent 150.00 foot radius curve to the left; thence Northwesterly and Westerly along said curve through a central angle of 29-58-40 an arc length of 78.48 feet to a point of tangency on the South line of Lot 12, Block 322; thence North 89-58-40 West along said South line 205.35 feet to the West line of Block 322 and the terminus of said described line;

(ALSO KNOWN as Parcel A of City of Seattle Lot Boundary Adjustment No. 8802502, recorded July 19, 1988, under Recording No. 8807191543.)

PARCEL B:

Those portions of Lots 1 through 24, inclusive, Block 288, and Lots 12 through 24, inclusive, Block 322, Seattle Tide Lands, according to the official maps thereof in the Office of Commissioner of Public Lands in Olympia, Washington; and that portion of the Northerly 50.0 feet of the 100.00 foot vacated right-of-way of Massachusetts Street, all described as follows:

Commencing at the N.E. corner of said Lot 1 in Block 288; thence Westerly along the North line of said Lot in Block 288 to the point of intersection with a line drawn parallel with and distant 10.0 feet Northwesterly of, as measured at right angles to, Burlington Northern Railroad Company's most Westerly tract centerline located in said Block 288, said point being the TRUE POINT OF BEGINNING of the parcel to be described; thence South 10-33-30 West along said parallel line to the point of intersection with the South line of said Northerly 50.0 feet of the 100.0 foot vacated right-of-way of Massachusetts Street; thence Westerly along said South line to the point of intersection with a line drawn parallel with and distant 205.35 feet Easterly of, as measured at right angles to, the West line of said Block 322; thence Northerly along said parallel line to the point of intersection with the North line of said Lot 13 in Block 322; thence Southeasterly along a curve concave to the Southwest and having a radius of 150.0 feet an arc distance of 78.48 feet; thence South 60-00 East a distance of 67.61 feet; thence North 30-00 East a distance of 153.89 feet; thence Northeasterly along a curve concave to the Northwest and having a radius of 330.0 feet a distance of 172.79 feet to the point of inter-section with a line drawn parallel with and distant 460.0 feet Easterly of, as measured at right angles to, said West line of Block 322; thence Northerly along said parallel line a distance of 465.36 feet to the point of intersection with said North line of Lot 1 in Block 288; thence Easterly along said North line to the TRUE POINT OF BEGINNING.

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**AMENDMENT NO. 5 TO AGREEMENT BETWEEN KING COUNTY
AND THE WASHINGTON STATE MAJOR LEAGUE
BASEBALL STADIUM PUBLIC FACILITIES DISTRICT**

This Amendment No. 5 to the March 18, 1996 Financing Agreement ("Amendment No. 5") by and between King County (the "County") and the Washington State Major League Baseball Stadium Public Facilities District (the "PFD"), collectively referred to as the "Parties," shall be effective upon the authorized signatures of both Parties.

FINDINGS

The County and the PFD entered into a Financing Agreement dated March 18, 1996 ("Financing Agreement") providing for County assistance and cooperation in certain aspects of the development of a major league baseball stadium in the City of Seattle (the "Ballpark"); and

The Financing Agreement has been periodically amended by the Parties to more specifically address aspects of their cooperation and to provide further County assistance for the project.

In accordance with Paragraph 11 of the Financing Agreement, the County and the PFD wish to amend the Financing Agreement in order to:

- (1) establish the procedures under which the proceeds of County bond funds issued for Ballpark funding under applicable State law shall be provided to the PFD; and
- (2) establish the process and commitments under which principal and interest payments on County bonds issued for the construction of the Ballpark parking structure will be made from Ballpark parking or other revenues provided by The Baseball Club of Seattle L.P. (the "Club") through the PFD under the Ballpark Operations and Lease Agreement between the PFD and the Club (the "Lease") to the extent that specific tax revenues are insufficient to make such payments.

NOW, THEREFORE, in consideration of the promises, covenants and considerations set forth herein, the County and the PFD hereby agree to amend the Financing Agreement to add the following new subparagraphs to section 4:

4.8 Transfer of Bond Proceeds to PFD; Safeguarding by PFD; Release from Escrow to PFD Accounts.

The PFD agrees to undertake the Ballpark project consistent with State law and County Ordinance with County Ballpark bond proceeds. It further agrees to safeguard such proceeds provided to it for this purpose. To that end, the PFD agrees to enter into an Escrow Deposit Agreement with The Bank of New York, substantially in the form of the attachment hereto. The PFD further agrees to immediately deposit all proceeds of the County's bonds it receives from the

County under Section 4.05 of Ordinance No. 12686 with The Bank of New York pursuant to such Escrow Deposit Agreement for safekeeping until such proceeds may be released to PFD accounts for use in the construction of the Ballpark. The County represents that the proceeds transferred to the PFD together with earnings thereon will be sufficient to provide monies adequate to pay off the bonds in the event of an extraordinary redemption. In the event such proceeds and earnings thereon are insufficient, the County will provide to the PFD any additional funds necessary to pay off the bonds.

The PFD authorizes and directs the County, as PFD Treasurer, to establish two PFD bond proceeds funds, one for proceeds of tax-exempt bonds and one for proceeds of taxable bonds. When bond proceeds are available for release from the Escrow Fund in accordance with Section 4.05 of Ordinance No. 12686 and the Escrow Deposit Agreement, all available bond proceeds, less allocable bond issuance costs, shall be transferred to the appropriate District fund. Upon release of the bond proceeds from the Escrow Fund, the District will immediately direct the transfer of funds to the County to fully repay outstanding interfund loans plus accrued interest to the date of repayment and any accrued interest on the bonds. As PFD Treasurer, the County will monitor and account to the District for interest earnings and perform necessary arbitrage calculations associated with retention of bond proceeds on behalf of the District. The PFD agrees not to take any action or permit any action to be taken that would cause the interest in the tax-exempt bonds (Series A-1, Series B and Series D) to be included in gross income for federal income tax purposes.

The PFD agrees that, except for the repayment of County loans as provided in this Amendment No. 5, it shall not expend or encumber, or obligate itself to expend or encumber, any of the bond proceeds released from escrow unless and until it has received from the Club a formal written acknowledgment that all of the conditions set forth in Article 24.1 of the Ballpark Operations and Lease Agreement, including without limitation the conditions set forth in subsections (a) through (g) of that Article, have either been met or have been waived by the Club as a basis for terminating either the Ballpark Operations and Lease Agreement or the Development Agreement and that neither the Club nor the PFD have any termination rights pursuant to Article 24 of the Ballpark Operations and Lease Agreement or pursuant to the Development Agreement. In the event that such termination of the Ballpark Operations and Lease Agreement or termination of the Development Agreement occurs prior to the execution of such an acknowledgment, the PFD agrees that all available bond proceeds shall be returned to the County immediately upon request by the County.

4.9 Parking Bonds. Specifically with respect to the proceeds of the County's Series A-2 Bonds and Series C Bonds, transfer of available bond proceeds to the PFD bond proceeds fund is conditioned upon PFD certification to the County that the PFD has entered into a Parking Facility Financing and Construction Agreement with The Baseball Club of Seattle, L.P. (the "Club"), confirming the obligation of the Club to make the payments described in Section 4.03(b)(2) of Ordinance No. 12686 and as required under Section 3.7.3 of the Operations and Lease Agreement between the PFD and the Club, specifically including a priority security interest in favor of the PFD in Ballpark parking revenues for the purpose of paying principal and interest on the Series C Bonds, if necessary. The obligation of the Club to make such payments shall not

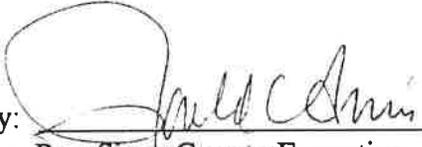
arise until the Stadium Admissions Taxes have been collected on 73 games of Major League Baseball played in the Ballpark. As provided in Section 4.04 of Ordinance No. 12686, the proceeds of the Stadium Admissions Taxes shall be held by the County in a special trust account designated solely for the payment of debt service on the County's Series A-2 Bonds and the Series C Bonds so long as such Bonds remain outstanding and shall be applied for such purpose prior to any request or demand for payments from the Club. The Parking Facility Financing and Construction Agreement shall establish a process under which the County, the PFD and Club, on an annual basis, shall determine the amount of any funds that will be required from the Club to supplement available Stadium Admissions Tax revenues to meet debt service payments due during that year. The Agreement will require the Club to transfer any such funds anticipated to be necessary to meet a forthcoming debt service payment to the PFD 45 days prior to a debt service payment date. Funds provided by the Club in anticipation that the Stadium Admissions Taxes will be insufficient to meet a forthcoming debt service payment will be reimbursed to the Club to the extent such payments prove unnecessary as of the debt service payment date. The PFD shall transfer funds paid to it by the Club, to the extent such funds are necessary to meet a forthcoming debt service payment, to the County for timely payment of debt service. If necessary to ensure timely payment of debt service, the PFD agrees to exercise its rights under the Agreement to obtain the payments from the Club as well as to exercise its other remedies under the Operations and Lease Agreement, specifically including but not limited to drawing on the Club's Reserve Letter of Credit required under Section 8.1 of the Operations and Lease Agreement.

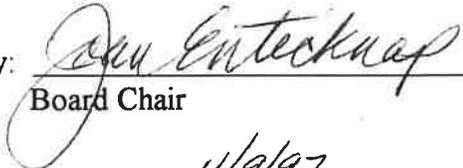
EXCEPT AS SET FORTH HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE FINANCING AGREEMENT ARE TO REMAIN IN FULL FORCE AND EFFECT.

In witness whereof, the Parties hereto have accepted this Amendment No. 5.

KING COUNTY

WASHINGTON STATE MAJOR LEAGUE
BASEBALL STADIUM PUBLIC
FACILITIES DISTRICT

By: 
Ron Sims, County Executive
4/11/97

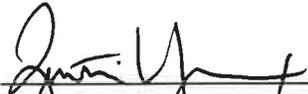
By: 
Board Chair
4/9/97

Date

Date

Approved as to form:

Approved as to form:


King County Prosecuting Attorney
7/10/97


District Attorney
4/9/97

Date

Date