

ORDINANCE No. 117600

MO

COUNCIL BILL No. 110653

The City of Seattle - Legislative

AN ORDINANCE relating to historic preservation; authorizing the purchase by the City of development rights from the owner of the Eagles Building, a Seattle Landmark, to be restored as a performing arts theater and low-income; authorizing additional City funding for the rehabilitation of the Eagles Building in return for public benefits; making appropriations from the Development Rights Fund and general fund; authorizing related agreements and acceptance of deeds; and ratifying and confirming prior acts; all by a three-fourths vote.

REPORT OF COMMITTEE

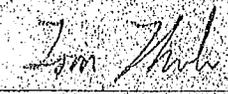
Honorable President:

Your Committee on FINANCE, BUDGET, MANAGEMENT & PERSONAL

to which was referred the within Council Bill No. 110653 report that we have considered the same and respectfully recommend

~~Pass~~ AMEND 2-0 ; PASS AS AMENDED 2-0 (LW, HCL)

Full Council vote 9-



Committee Chair

COMPTROLLER FILE No.

Introduced: APR 3 1995	By: WEEKS
Referred: APR 3 1995	To: FINANCE, BUDGET, MANAGEMENT & PERSONAL COMMITTEE
Referred:	To:
Referred:	To:
Reported: APR 17 1995	Second Reading: APR 17 1995
Third Reading: APR 17 1995	Signed: APR 17 1995
Presented to Mayor: APR 17 1995	Approved: APR 25 1995
Returned to City Clerk: APR 25 1995	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

180

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

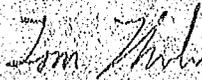
Honorable President:

Your Committee on FINANCE BUDGET MANAGEMENT & PERSONNEL

to which was referred the within Council Bill No. 110653
report that we have considered the same and respectfully recommend that the same:

BE AMENDED 2-0, PASS AS AMENDED 2-0 (TW, H.C.)

Full Council vote 9-0



Committee Chair

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

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BUDGET
PERSONAL
1995
1995
2-0/2095

ORDINANCE 117600

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2 AN ORDINANCE relating to historic preservation; authorizing the
3 purchase by the City of development rights from the owner of
4 the Eagles Building, a Seattle Landmark to be restored as a
5 performing arts theater and low-income housing; authorizing
6 additional City funding for the rehabilitation of the Eagles
7 Building in return for public benefits; making
8 appropriations from the Development Rights Fund and general
9 fund; authorizing related agreements and acceptance of
10 deeds; and ratifying and confirming prior acts; all by a
11 three-fourths vote.

12 WHEREAS, by Ordinance 116153 passed on January 4, 1993 the City
13 Council adopted amendments to the Land Use Code in order to
14 grant additional incentives to the preservation and
15 restoration of Landmark Performing Arts Theaters in Downtown
16 Seattle and authorized the Director of Housing and Human
17 Services ("DHHS Director") to negotiate the purchase of
18 transferable development rights ("TDRs") from such theaters;
19 and

20 WHEREAS, the Eagles Building is a Landmark designated under
21 the Landmarks Preservation Ordinance, Chapter 25.12 of
22 the Seattle Municipal Code (SMC), pursuant to Ordinance
23 112272; and

24 WHEREAS, the Eagles Building has been unoccupied for several
25 years and requires major rehabilitation;

26 WHEREAS, the Washington State Convention and Trade Center has
27 deeded the Eagles Building to a partnership formed by the
28 ACT Theater and Seattle Housing Resources Group, while
29 reserving a portion of the development rights from the
30 Eagles Building property and obtaining housing bonus
31 benefits in accordance with a Performance Agreement dated
32 May 3, 1994, as contemplated by Ordinance 117006;

33 WHEREAS, the present owner of the Eagles Building proposes to
conduct a major rehabilitation in order to preserve and
operate performing arts theaters and low-income housing as
intended by Ordinance 116153, and has obtained substantial
commitments of public and private funds for that purpose;
and

WHEREAS, until March 1995 the City Council could not determine
whether and to what extent the Eagles Building would
require, and would be eligible for, funding from the City;
and

WHEREAS, the Executive branch has recently concluded negotiations
for the purchase of TDRs from the Eagles Building for the
TDR Bank and for the further funding of the Eagles Building
rehabilitation in return for additional benefits to the
City; Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The amount of THREE HUNDRED EIGHTY-THREE
THOUSAND FOUR HUNDRED TWENTY AND NO/100 DOLLARS (\$383,420.00) is
hereby appropriated from the Development Rights Fund for the
purchase by The City of Seattle of all remaining transferable

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
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1 development rights ("TDRs") from the Eagles Building property at
2 7th Avenue and Union St., Seattle, Washington, legally described
3 as:

4 LOTS 8,9 AND 10 IN BLOCK 65 OF ADDITION TO THE TOWN OF
5 SEATTLE, AS LAID OUT BY A.A. DENNY, (COMMONLY KNOWN AS
6 A.A. DENNY'S FIFTH ADDITION TO THE CITY OF SEATTLE, AS
7 PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 89,
8 RECORDS OF KING COUNTY;
9 EXCEPT THE SOUTHEASTERLY 5 FEET OF SAID LOT 12
10 HERETOFORE CONDEMNED IN KING COUNTY SUPERIOR COURT
11 CAUSE NO. 62589 FOR WIDENING OF UNION STREET, AS
12 PROVIDED BY ORDINANCE 18188 OF THE CITY OF SEATTLE;
13 SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE
14 OF WASHINGTON.

15 The 1995 Annual Budget is hereby modified by increasing the
16 expenditure allowance in the Development Rights Fund by the
17 amount stated above.

18 Section 2. AGREEMENT, DEED AND OTHER ACTIONS. The Director
19 of Housing and Human Services or her designee ("DHHS Director")
20 is hereby authorized, for and on behalf of the City, to execute,
21 deliver, record, perform and administer a Second Amendment to
22 Performance Agreement with the owner of the Eagles Building, in
23 substantially the form attached hereto as Exhibit A and
24 incorporated by this reference ("Agreement"), which agreement
25 provides among other things for the purchase by the City of
26 TWENTY-NINE THOUSAND THREE (29,003) sq. ft. of TDRs for a price
27 equal to the amount set forth in Section 1 of this Ordinance.
28 Upon substantial satisfaction of the conditions precedent set
29 forth in the Agreement the Director is authorized to cause the
30 purchase price to be paid by the City from funds appropriated
31 under Section 1 of this Ordinance, and to accept and record a
32 deed for the TDRs in substantially the form attached hereto as
33 Exhibit B.

Section 3. The amount of NINE HUNDRED SIXTEEN THOUSAND FIVE
HUNDRED EIGHTY AND NO/100 DOLLARS (\$916,580.00) is hereby
transferred from the Development Rights Fund to the General Fund,

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1 and the same amount is hereby appropriated for the purpose of
2 assisting with the historic rehabilitation of the Eagles Building
3 in accordance with the Agreement authorized in Section 2 of this
4 Ordinance. Accordingly, the 1995 Annual Budget is hereby amended
5 by increasing the expenditure allowance in the Department of
6 Housing and Human Services, Object of Expenditure: Other Charges,
7 by the amount stated in this Section. The appropriation in this
8 Section is in recognition and in consideration of (i) the
9 specific provisions in the Agreement authorized in Section 2 of
10 this Ordinance regarding city uses of space in the Eagles
11 Building; (ii) the value to the City of successful
12 rehabilitation, preservation, and operation of the Eagles
13 Building as a Landmark Performing Arts Theater and low-income
14 housing; (iii) the commitment of funds from other public and
15 private sources to that project; and (iv) the existence of a
16 financing gap for the rehabilitation project that will be filled
17 by the City's funding.

18
19 Section 4. ADDITIONAL DOCUMENTS AND ACTIONS. The Director
20 or her designee is hereby authorized, for and on behalf of the
21 City, to execute, deliver, record, accept, modify, and
22 administer, as appropriate, any additional documents contemplated
23 by the Agreement or that may be necessary or appropriate to
24 implement the intent of the Agreement or this Ordinance.

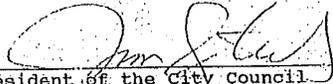
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26 Section 5. RECORDING OF DOCUMENTS. The originals of the
27 Agreement and Deed authorized in Section 2 of this Ordinance
28 shall be recorded with the King County Office of records and
29 Elections and filed with the City Clerk after recording.

30
31 Section 6. RATIFICATION. Any actions pursuant to the
32 authority of this Ordinance and prior to its effective date are
33 hereby ratified and confirmed.

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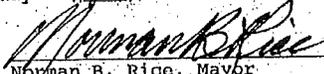
1 Section 7. EFFECTIVENESS; THREE-FOURTHS VOTE. The
2 foregoing appropriation is made to meet actual necessary
3 expenditures of the City for which no appropriations have been
4 made due to causes which could not reasonably have been foreseen
5 at the time of the adoption of the 1995 Budget; Now, therefore,
6 in accordance with RCW 35.32A.060, by reason of the facts above
7 stated, this ordinance shall take effect and be in force thirty
8 days after its passage and approval, if approved by the Mayor;
9 but if not approved and returned by the Mayor within ten (10)
10 days after presentation, it shall take effect as provided by
11 Municipal Code Section 1.04.020.

12 PASSED by three-fourths vote of all the members of the City
13 Council the 17 day of April, 1995, and signed by me in
14 open session in authentication of its passage this 17 day of
15 April, 1995.



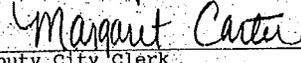
President of the City Council

17 Approved by me this 25 day of April, 1995.



Norman B. Rice, Mayor

20 Filed by me this 25 day of April, 1995.



Deputy City Clerk

23 (SEAL)

24 Exhibits:

- 25 A. Second Amendment to Performance Agreement
26 B. Form of Deed for Development Rights
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Ordinance
Title

ORDINANCE 117600

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AN ORDINANCE relating to historic preservation; authorizing the purchase by the City of development rights from the owner of the Eagles Building, a Seattle Landmark to be restored as a performing arts theater and low-income housing; authorizing additional City funding for the rehabilitation of the Eagles building in return for public benefits; making appropriations from the Development Rights Fund and general fund; authorizing related agreements and acceptance of deeds; and ratifying and confirming prior acts; all by a three-fourths vote.

WHEREAS, by Ordinance 116153 passed on January 4, 1993 the City Council adopted amendments to the Land Use Code in order to grant additional incentives to the preservation and restoration of Landmark Performing Arts Theaters in Downtown Seattle and authorized the Director of Housing and Human Services ("DHHS Director") to negotiate the purchase of transferable development rights ("TDRs") from such theaters; and

WHEREAS, the Eagles Building is a Landmark designated under the Landmarks Preservation Ordinance, Chapter 25.12 of the Seattle Municipal Code (SMC), pursuant to Ordinance 112272; and

WHEREAS, the Eagles Building has been unoccupied for several years and requires major rehabilitation;

WHEREAS, the Washington State Convention and Trade Center has deeded the Eagles Building to a partnership formed by the ACT Theater and Seattle Housing Resources Group, while reserving a portion of the development rights from the Eagles Building property and obtaining housing bonus benefits in accordance with a Performance Agreement dated May 3, 1994, as contemplated by Ordinance 117006;

WHEREAS, the present owner of the Eagles Building proposes to conduct a major rehabilitation in order to preserve and operate performing arts theaters and low-income housing as intended by Ordinance 116153, and has obtained substantial commitments of public and private funds for that purpose; and

WHEREAS, until March 1995 the City Council could not determine whether and to what extent the Eagles Building would require, and would be eligible for, funding from the city; and

WHEREAS, the Executive branch has recently concluded negotiations for the purchase of TDRs from the Eagles Building for the TDR Bank and for the further funding of the Eagles Building rehabilitation in return for additional benefits to the City; Now, Therefore;

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The amount of THREE HUNDRED EIGHTY-THREE THOUSAND FOUR HUNDRED TWENTY AND NO/100 DOLLARS (\$383,420.00) is hereby appropriated from the Development Rights Fund for the purchase by The City of Seattle of all remaining transferable

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10-00
959503-186 00:43:00 PM KING COUNTY RECORDS PCA SH

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23 substantially the form attached hereto as Exhibit A and
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27 Agreement and Deed authorized in Section 2 of this Ordinance
28 shall be recorded with the King County Office of records and
29 Elections and filed with the City Clerk after recording.

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31 Section 6. BATTELICATION. Any actions pursuant to the
32 authority of this Ordinance and prior to its effective date are
33 hereby ratified and confirmed.

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Section 7: ~~EFFECTIVENESS~~ THREE-FOURTHS VOTE. The foregoing appropriation is made to meet actual necessary expenditures of the City for which no appropriations have been made due to causes which could not reasonably have been foreseen at the time of the adoption of the 1990 Budget; Now, therefore, in accordance with RCW 35.37A.060, by reason of the facts above stated, this ordinance shall take effect and be in force thirty days after its passage and approval, if approved by the Mayor; but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

PASSED by three-fourths vote of all the members of the City Council the 17 day of April, 1995, and signed by me in open session in authentication of its passage this 17 day of April, 1995.

[Signature]
President of the City Council

Approved by me this 25 day of April, 1995.

[Signature]
Robert B. Rice, Mayor

Filed by me this 25 day of April, 1995.

[Signature]
Deputy City Clerk

(DEAL)

Exhibits:

- A. Second Amendment to Performance Agreement
- B. Fees of Deed for Development Rights

STATE OF WASHINGTON
COUNTY OF KING
CITY OF SEATTLE

I, JUDITH E. POPPE, CITY CLERK OF THE CITY OF SEATTLE, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF Ordinance 117600

AS THE SAME APPEARS ON FILE AND OF RECORD IN THIS DEPARTMENT.

IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME AND AFFIXED THE SEAL TO THE CITY OF SEATTLE, THIS 1st day of May, 1995

[Signature]
JUDITH E. POPPE
CITY CLERK

Recorded at the request of;
after recording return to:

Department of Housing and Human Services
6th Floor, 618 Second Ave.
Seattle, WA 98101

SECOND AMENDMENT TO
HOUSING BONUS, THEATER BONUS AND TDR
PERFORMANCE AGREEMENT FOR
LANDMARK THEATER/HOUSING TDR

THIS AGREEMENT is entered into as of the _____ day of _____, 1995 by and among Eagles Auditorium Limited Partnership, a State of Washington limited partnership (the "Developer"); The City of Seattle, a State of Washington municipal corporation (the "City"); and A Contemporary Theatre, a Washington nonprofit corporation ("ACT").

RECITALS

1. The Developer and the City executed a Housing Bonus, Theater Bonus and TDR Performance Agreement for Landmark Theater/Housing TDR with the City on May 3, 1994 in which Developer agreed to the terms and conditions required by the Seattle Land Use Code and Directors' Rule 20-93 of the department of Construction and Land Use ("DCLU") for transfers of development rights from Landmark Housing/TDR sites. A Memorandum of Use Covenants containing certain provisions of such agreement is recorded under King County recording number 9406270971. Such agreement, as amended by a first amendment dated May 13, 1994, is referred to herein as the "Performance Agreement."
2. A portion of the TDRs from the Property were retained by Developer's Grantor for its remaining adjacent site.
3. The Developer desires to sell all remaining TDRs attributable to the Eagles Auditorium Landmark Housing/TDR site to the City.
4. Developer intends to lease the theater portion of the Property to ACT under a long term lease. ACT is willing to take such lease subject to an easement and covenants providing for certain public benefit uses of the stages and special events room, provided that the funding granted by the City in consideration of such uses is directed to ACT. Based on that agreement by ACT, Developer is willing to grant the City certain additional rights

1
EXHIBIT A