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TRANSIT STATION ENTRANCE EASEMENT AND OPERATING AGREEMENT

This Transit Station Entrance Easement and Operating Agreement (the "Agreement") is entered into as of the 21st day of July, 1998, by and between King County, a home rule charter county of the State of Washington (the "County"), The City of Seattle, a municipality of the first class in the State of Washington (the "City"), and BH Music Center, a not-for-profit corporation organized under the laws of and doing business in the State of Washington ("BHMC").

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WHEREAS, the City owns certain real property situated in the City of Seattle, King County, Washington, which real property is legally described in Exhibit A attached hereto and incorporated by this reference (the "City's Property");

WHEREAS, BHMC and the City have entered into a lease (a memorandum of which dated _____, 1997 was recorded under King County Recording Number _____) (the "Lease") of the new symphony orchestra performance hall which is being constructed on the City's Property ("Benaroya Hall");

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WHEREAS, pursuant to that Master Cooperation Agreement For the Downtown Seattle Transit Project entered into between the Municipality of Metropolitan Seattle ("Metro"), predecessor in interest to the County, and the City, in October 1985, Metro was authorized to locate, construct, operate, maintain and manage the downtown Seattle bus tunnel (the "Bus Tunnel") within portions of the public rights-of-way lying in the City (the "Transit Way"), for so long as such Transit Way is used for public transportation purposes;

WHEREAS, the Bus Tunnel, which includes the University Street Station (the "Station"), is located in and under the block adjacent to the eastern boundary of the City's Property, as shown on Exhibit B, attached hereto;

WHEREAS, pursuant to that Transit Station Entrance Easement Agreement and that Transit Station Entrance Surface Easement and Temporary Construction Easement Agreement, both of which were entered into between Marathon U.S. Realities, Inc., predecessor in interest to the City, and Metro, predecessor in interest to the County, on January 15, 1988, and February 29, 1988, respectively, Marathon U.S. Realities, Inc. granted Metro an easement for pedestrian access from the sidewalks, streets and public

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rights of way adjoining the City's Property across the City's Property to an entrance to the Station, and for all purposes necessary to the operation, maintenance and repair of said transit station entrance (the "Prior Easement Agreements");

WHEREAS, Metro and King County have merged and the County has acquired and assumed all property rights and obligations of Metro pursuant to said merger;

WHEREAS, pursuant to that Agreement Between King County, Seattle Symphony Orchestra and The City of Seattle Regarding the Development of a Relocated Transit Tunnel Entry to University St. Station (the "Development Agreement"), dated April 12, 1996, and a Master Agreement entered into between the Seattle Symphony Orchestra and the City, dated October 30, 1995 (the "Master Agreement"), the transit station entrance referred to above was reconstructed and relocated to the Entry; and

WHEREAS, the parties hereto desire to replace in full the Prior Easement Agreements and implement Section 7 of the Development Agreement by setting forth terms for the operation, use and maintenance of the relocated transit station entrance, and redefining the location and scope of the easements pertaining to such relocated entrance.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County, the City and BHMC agree and covenant as follows.

1. DEFINITIONS.

For the purpose of interpreting this Agreement, capitalized terms used shall be defined as set forth below except where the context requires that a different meaning be ascribed to such term. For the purpose of such definitions and other words in this Agreement, terms in the singular include the plural and vice versa.

A. "The Boeing Company Gallery" means that arcade area running north and south along the Third Avenue side of the City's Property, as shown on the Site Plan attached hereto as Exhibit C, and incorporated herein by this reference.

B. "Business Hours of Benaroya Hall" means all time periods that persons can gain ingress to or egress from any portion of Benaroya Hall or its parking garage by means of any component part of the Entry.

C. "Entry" means the relocated Station entrance located on the City's Property, which Entry consists of the Station Portion and the Non-Station Portion, and which is shown on Exhibit C.



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D. "Intake" means the relocated fresh air intake duct located above and below street level along the southern half of the eastern boundary of the City's Property, as shown on Exhibit C.

E. "Intake Access Route" means that area through a portion of Benaroya Hall leading to the Intake, and in which the Intake is located, as shown on Exhibit C.

F. "Intake Portion" means the Intake and the Intake Access Route.

G. "Non-business Hours of Benaroya Hall" means all time periods that persons cannot gain ingress to or egress from any portion of Benaroya Hall or its parking garage by means of any component part of the Entry.

H. "Non-Station Portion" means (i) that portion of the Entry from the grille gate situated at the northeast corner of the southeast elevator bank lobby located on the Second Avenue Concourse, west along the Second Avenue Concourse to the exit/entry grille gates to the Open Space, across the Open Space to access points on Second Avenue and University Street, as shown on Exhibit C; and (ii) that portion of the Entry from the grille gate situated at the northeast corner of the southeast elevator bank lobby located on the Second Avenue Concourse, vertically, by way of the dual elevator banks and associated stairs to The Boeing Company Gallery, south to the University Street doors at the southeast corner of the City's Property, as shown on Exhibit C.

I. "Open Space" means that outdoor area of the City's Property adjacent to Benaroya Hall on the west and south sides, as shown on Exhibit C.

J. "Second Avenue Concourse" means that pedestrian corridor within Benaroya Hall for Second Avenue ingress and egress, that is part of the Non-Station Portion, as shown on Exhibit C.

K. "Station Portion" means that portion of the Entry from the southwest corner of the northern mezzanine of the Station to the grille gate situated at the northeast corner of the southeast elevator bank lobby on the Second Avenue Concourse, as shown on Exhibit C.

2. OWNERSHIP.

The City's Property includes the Entry and the Intake Portion (including the concrete structural portion thereof), except that the County shall at all times own (i) all materials, mechanical and electrical systems, utilities, equipment, fixtures or improvements

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of any kind in the Station Portion that are (a) affixed to the concrete structural portion or are otherwise not part of the concrete structural portion thereof, and (b) part of the County's tunnel Surveillance Control and Data Acquisition (SCADA), electrical and HVAC systems, (ii) the County's portion of the Intake and associated ductwork as shown on Exhibit C, and (iii) the CCTV camera to be installed in the Non-Station Portion as set forth in Section 9(A).

3. EASEMENTS.

A. Surface Easement. The City hereby conveys to the County, for the benefit of the County and the County's contractors, consultants, agents, officers, employees, invitees and passengers, a perpetual, exclusive easement over the Station Portion, and a non-exclusive, perpetual easement over the Non Station Portion (collectively, the "Surface Easement"). The Surface Easement is for the purpose of (i) providing pedestrian access from the sidewalks, street and public rights of way adjoining the City's Property on Second Avenue, Third Avenue and University Street, across and through the Entry to the Station, (ii) providing necessary access for the operation, maintenance and repair of the Station Portion of said Entry, (iii) conducting tunnel/transit related employee training, so long as the County provides reasonable advance notice to BHMC, and when such training requires use of the Non-Station Portion, subject to reasonable time, place and manner restrictions imposed by BHMC. The County may use only the Station Portion for conducting customer communication activities (e.g., distribution of transit service related information, written or oral, and information-gathering surveys of transit customers). To the greatest extent possible consistent with the County's obligations to provide public transit services, the County will limit use of the Surface Easement for purposes other than those listed in subsections 3.A(i) through 3.A(iii) herein, to Non-business Hours of Benaroya Hall. Under no circumstances shall the County issue any use permit to, or otherwise authorize the use of the Surface Easement by any non-County entity for purposes other than those listed in subsections 3.A(i) through 3.A(iii) above without prior approval of BHMC. Although The Boeing Company Gallery is not included within the Surface Easement, the City and BHMC agree that all persons may gain ingress to or egress from the elevator portion of the Surface Easement via The Boeing Company Gallery when The Boeing Company Gallery is open to the public.

B. Intake Easement. The City hereby conveys for the benefit of the County, and the County's agents, officers, employees, invitees, consultants and contractors, a non-exclusive perpetual easement in and through the Intake Portion (the "Intake Easement"). The County's use of the Intake Easement is limited to gaining ingress to and egress from the Intake solely for the purposes of maintaining, operating,

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repairing, training transit personnel about, and replacing the County's portion of the Intake or Station HVAC equipment attached thereto.

The County may gain ingress to and egress from the Intake Access Route with a BHMC-provided escort, on twenty-four (24) hours verbal notice to and arrangement with BHMC, except in the case of an emergency, in which event BHMC will not unreasonably deny the County immediate use of the Intake Access Route to address the emergency. BHMC shall not unreasonably deny the County's timely use of the Intake Access Route under non-emergency circumstances.

C. Noninterference. The City and BHMC shall not: (i) do anything that will unnecessarily or unreasonably impede or obstruct the use or purpose of the easements created herein; or (ii) cause injury, damage or destruction to the County's property, as defined in Section 2. The County shall not: (i) make, suffer, or commit waste to or on the City's or BHMC's property; ii) interfere with the City's or BHMC's activities on the City's Property; (iii) permit any illegal practice to be carried on in the Surface Easement or Intake Easement; (iv) use the Surface Easement or Intake Easement for any purpose whatsoever that might create a nuisance; or (v) cause injury, damage or destruction to the City's Property or any improvement located thereon.

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4. MAINTENANCE.

A. Station Portion. The County, at its sole cost shall provide janitorial services for, and otherwise maintain the Station Portion in good condition and repair, but at a minimum, consistent with the standard employed by the County throughout the Bus Tunnel. The County's maintenance obligations shall include, without limitation, the maintenance, repair and replacement of the County's property described in Section 2. Neither the City nor BHMC shall have any liability or responsibility for the maintenance of the Station Portion, except to remedy, to the County's reasonable satisfaction, any damage to the Station Portion or defect in the construction causing damage to the Station Portion which resulted from the construction of Benaroya Hall or post construction work by BHMC or the City, so long as such damage occurs, and any claims therefor are made within six (6) years of the date of this Agreement. The City and BHMC shall remedy the damage and/or defect within thirty (30) days after receipt of written notice from the County specifying the nature of the damage and/or defect, except that in the event such damage or defect requires more than thirty (30) days to remedy, the City and BHMC shall commence remedial action within said thirty (30) day period and continue diligently until completion. In the event either the City or BHMC does not remedy the damage and/or defect as set forth in the preceding sentence, the County, at its option may take the necessary action to remedy the damage and/or

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defect, and the City and BHMC shall reimburse County for costs the County reasonably incurs thereby. The County shall be responsible, at its cost, for repairing any damage and/or defect related to any construction work performed by the County.

B. Non-Station Portion. BHMC, at its sole cost shall provide janitorial services for, and otherwise maintain the Non-Station Portion in good condition and repair, ordinary wear and tear and damage by fire or other casualty excepted, but at a minimum, consistent with the standard employed by BHMC throughout Benaroya Hall. BHMC's maintenance obligations shall include, without limitation, the maintenance, repair, replacement, and operation of the Non-Station Portion and all fixtures and improvements therein.

BHMC shall be obligated to contact the Benaroya Hall building manager if and when any of the elevators located in the Non-Station Portion become inoperable and BHMC becomes aware of the problem. In the event a Non-Station Portion elevator becomes inoperable, BHMC or the Benaroya Hall building manager shall take appropriate action to restore the elevator(s) to service in the shortest time possible. During the period that any elevator may be inoperable, BHMC shall appropriately sign the elevators to that effect, providing appropriate directions to reach the Second Avenue Concourse and parking garage levels. BHMC shall be responsible for the maintenance and repair of any of the elevators at all times, and shall be responsible for the janitorial maintenance of the elevators at all times, but with janitorial assistance provided by the County as described below when the Station Portion is open for gaining ingress to and egress from the Station Portion when the Station Portion is not open.

During Non-business Hours of Benaroya Hall, so long as the Bus Tunnel and the Entry are open, the County will perform "light" janitorial services in the Non-Station Portion, but not in the Open Space, at no expense to BHMC. Such janitorial services shall generally consist of picking up surface debris, mopping up liquid spills that constitute a potential slip hazard, cleaning up generally unsanitary conditions, and similar problems that may come to the County's attention, but which do not require special cleaning equipment, solvents, or expertise in their use. Under no circumstances shall the County be obligated to perform other janitorial services, regular or emergency maintenance, or repairs to the Non-Station Portion or the Open Space. The County will contact the Benaroya Hall building manager or BHMC if and when any of the elevators located in the Non-Station Portion become inoperable during the Non-business Hours of Benaroya Hall, and the County becomes aware of the problem. Under no circumstances shall the County perform repairs to or maintain any of the elevators, except for janitorial services as described above.

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C. Intake Portion. BHMC, at its sole cost shall provide janitorial services for, and otherwise maintain the Intake Access Route in good condition and repair for safe use by the County, ordinary wear and tear excepted, and at a minimum, consistent with the standard employed by BHMC throughout other utility areas of Benaroya Hall. Neither the City nor BHMC shall block the Intake. The County, at its sole cost and expense shall be responsible for maintaining the County's portion of the Intake.

5. ALTERATIONS/IMPROVEMENTS.

The County shall not make any improvements or alterations to any portion of the City's Property without BHMC and the City's consent, which consent may be withheld in either party's sole discretion. The County may, in its sole discretion, make improvements or alterations to any portion of the County's property described in Section 2. Notwithstanding the foregoing, in the event any improvement or alteration to or within the easement areas is to be undertaken, a mutually agreeable schedule shall be established prior to any party initiating any such improvement or alteration. Any schedule will be established such that work will not interfere with BHMC's use or operation of Benaroya Hall, or the ability of transit customers to safely and efficiently gain ingress to and egress from the Station.

6. UTILITIES.

A. Station Portion. The County shall be responsible for all utility costs associated with the Station Portion of the Entry. Metro shall make all payments directly to the service providers(s) before delinquency. Upon request Metro shall provide evidence of such payments to BHMC and/or the City.

B. Non-Station and Intake Portions. BHMC shall be responsible for all utility costs associated with the Non-Station and Intake Portions. BHMC shall make all payments directly to the service provider(s) before delinquency. Upon request BHMC shall provide evidence of such payments to Metro and/or the City.

7. SIGNS.

The County, at its cost, shall maintain, repair and replace all County owned signs located in the Station Portion and installed by BHMC as part of the initial construction of Benaroya Hall. BHMC shall install and maintain those signs denoting the Station Entry location situated above the exit/entry grille gates at the juncture of the Second Avenue Concourse and the Open Space. BHMC shall install the three (3) pylon signs located on the City's Property on Second Avenue, Third Avenue and University Street, as shown on

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Exhibit C, which three (3) signs shall be maintained, repaired and replaced by the County. Any other signs the County desires to install in or on the City's Property following initial construction of Benaroya Hall and the execution of this Agreement shall be at the County's sole cost, and subject to BHMC's and the City's prior written approval, which approval may be withheld in either party's sole discretion. Any sign BHMC desires to install in or on the Station Portion shall be at BHMC's sole cost, and subject to the County's prior written approval, which approval may be withheld in the County's sole discretion.

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8. HOURS/OPENING AND CLOSING RESPONSIBILITY

A. Station Portion. The County shall be responsible for opening and closing the Station Portion in accordance with the Bus Tunnel operating hours as established, and modified from time to time by the County, including the potential of operating the Bus Tunnel twenty-four (24) hours per day, every day of the year.

B. Non-Station Portion. The Non-Station Portion shall be open for use, as necessary to support the operation of the Bus Tunnel. The Non-Station portion shall also remain open as necessary to support the operation of Benaroya Hall. Both BHMC and the County will retain the keys necessary to open the Non-Station Portion. Whichever organization first opens for business (pursuant to an agreed upon schedule discussed in paragraph 8.C) each day shall be responsible for opening the Non-Station Portion, and whichever organization closes last each day shall be responsible for closing and securing the Non-Station Portion, ensuring that no unauthorized personnel remain in the Non-Station Portion.

C. Change in Hours. Upon execution hereof, the County and BHMC shall exchange a schedule of operation for their respective organizations setting forth the anticipated hours of operation for the twelve full months beginning July 1, 1998. In the event either party desires to change its hours of operation, it shall provide the other party at least sixty (60) days prior written notice of such change, except in the event of a schedule change necessitated by an emergency situation, or pursuant to a King County Council order or King County Executive directive, in which case the changing party shall verbally notify the other party as soon as reasonably possible.

9. SECURITY/EMERGENCY SITUATIONS

A. The Station Portion. The County shall monitor the Station Portion, to include, but not limited to, periodic physical and electronic surveillance and maintaining levels of lighting suitable for use by the general public. The County shall be responsible for addressing emergency situations occurring in the Station Portion as may be appropriate under the circumstances. The County will furnish BHMC with emergency contact information, to be updated as appropriate.



In addition to any physical surveillance it may provide, the County will monitor the Station Portion by means of a closed circuit television ("CCTV") camera owned by the County, but installed by BHMC, in the Non-Station Portion. The County, at its cost, shall operate, maintain, repair and replace the camera. The County shall have exclusive use of the camera once it is installed and connected to the County's tunnel monitoring system. BHMC will have a passive visual feed from the camera to BHMC's CCTV security system inside Benaroya Hall. The parties agree that notwithstanding BHMC's installation of, and access to the CCTV camera, neither the City nor BHMC shall be obligated to provide a direct response to an emergency situation in the Station Portion, and that except as otherwise provided herein, neither the City nor BHMC assumes any liability whatsoever for any injury, damage or other claim arising from any occurrence in the Station Portion.

B. The Non-Station Portion. During Business Hours of Benaroya Hall and when the Station Portion is not open for gaining access to or egress from the Station, BHMC shall monitor the Non-Station Portion to include, but not limited to, periodic physical and electronic surveillance and maintaining levels of lighting suitable for use by the general public. During such hours, BHMC shall be responsible for addressing emergency situations occurring in the Non-Station Portion, to include, without limitation, freeing individuals stuck in disabled elevators and other situations requiring a response as may be appropriate under the circumstances. BHMC will furnish the County with emergency contact information, to be updated as appropriate. The County shall not be obligated to provide a direct response to an emergency situation in the Non-Station Portion, and except as otherwise provided herein, the County assumes no liability whatsoever for any injury, damage or other claim arising from any occurrence in the Non-Station Portion.

During Bus Tunnel operating hours when Benaroya Hall is not open for business (Non-business Hours of Benaroya Hall), and the Station Portion is open for gaining ingress to or egress from the Station, the County shall monitor the Non-Station Portion and respond to emergency situations as may be appropriate under the circumstances. In the event persons become stuck in a disabled elevator, and County staff become aware of the problem, the County shall contact the Benaroya Hall building manager or security office to request that BHMC contact the elevator service company. If the County cannot contact Benaroya Hall personnel, the County is authorized at no cost to itself, to respond as may be appropriate under the circumstances.

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C. Intake. BHMC shall monitor the Intake Portion, to include, but not limited to, periodic physical surveillance and maintaining suitable levels of lighting. BHMC shall be responsible for addressing emergency situations occurring in the Intake Portion as may be appropriate under the circumstances. The parties agree that the County shall not be obligated to provide a direct response to an emergency situation in the Intake Portion at any time, and that the County assumes no liability for any injury, damage or other claim arising from any occurrence in the Intake Portion, except as provided herein. In the event the County becomes aware of an emergency situation in the Intake Portion, the County may contact the Benaroya Hall building manager or security office as appropriate under the circumstances.

10. INSURANCE.

A. Station Portion. The County shall procure and maintain, in full force and effect at no cost to BHMC or the City:

- (1) Commercial general liability insurance written on an occurrence form covering the Station Portion in commercially reasonable amounts, but in no event less than Five Million and No/100 Dollars (\$5,000,000.00) combined bodily injury and property damage including all of the usual coverages known as Premises/Operations Liability, Products/Completed Operations Liability, Personal/Advertising Liability, Contractual Liability, Independent Contractors Liability, Fire Legal Liability, and Employers Contingent Liability.
- (2) A policy of Workers' Compensation securing the County's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington; and
- (3) Fire and extended coverage property insurance equal to 100% of the replacement costs of any improvements in the Station Portion, insuring against "all risks", including without limitation, loss or damage by fire, windstorm, cyclone, tornado, hail, explosion, riot, riot attending a strike, civil commotion, malicious mischief, vandalism, aircraft, vehicle, smoke and sprinkler leakage.

The parties acknowledge, agree and understand that the County is self-funded for all of its liability exposures and that its self-funding program satisfies the insurance requirements for subsections (1) and (2) above. The County agrees, at its own expense, to maintain, through its self-funded program, coverage for its liability exposures for the duration of this Agreement, so long as the County is a party to the

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Agreement. The County agrees to provide the City and BHMC with at least forty-five (45) days prior written notice of any material change in the County's self-funded program and will provide each Party with a certificate of self-insurance as adequate proof of coverage.

B. Non-Station Portion and Inrake Portion. BHMC shall procure and maintain in full force and effect at no cost to the County or the City: (1) commercial general liability insurance written on an occurrence form covering the Non-Station Portion in commercially reasonable amounts, but in no event less than Five Million and No/100 Dollars (\$5,000,000.00) combined bodily injury and property damage including all of the usual coverages known as Premises/Operations Liability, Products/Completed Operations Liability, Personal/Advertising Liability, Contractual Liability, Independent Contractors Liability, Elevator & Hoist Liability, Fire Legal Liability, and Employers Contingent Liability; and (2) fire and extended coverage property insurance equal to 100% of the replacement costs of any improvements in the Non-Station Portion, insuring against an "all risks", including without limitation, loss or damage by fire, windstorm, cyclone, tornado, hail, collapse, explosion, riot, riot attending a strike, civil commotion, malicious mischief, vandalism, aircraft, vehicle, smoke and sprinkler leakage; and (3) a policy of Workers' Compensation securing BHMC's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. The insurance to be secured and maintained by BHMC under the Lease may serve as a substitute for the insurance required hereunder so long as the County is also named as an Additional Insured thereunder.

C. Standards of Insurance. All insurance required under this Agreement shall be issued by insurance companies authorized to do business in the State of Washington and have a financial rating of at least A-: VII status, as rated in the most recent edition of A. M. Best's Key Rating Guide or, in the event such publication is discontinued, such other insurance company rating guide as is agreed upon by the parties hereto.

D. Required Provisions. All insurance required under this Agreement shall (1) be endorsed to be primary and non-contributing with any insurance maintained by the City; (2) contain a provision that the same may not be canceled without at least forty-five (45) days' prior written notice being given to the City and BHMC; (3) have a contractual endorsement covering the parties' respective indemnification obligations hereunder; (4) provide a waiver of subrogation against any Additional Insured; (5) acknowledge the absence or inapplicability of any cross-liability exclusion; and (6) be subject to the approval of the City's and the County's Risk Managers as to company, form and coverage, which approvals

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shall not be unreasonably withheld. In addition, the commercial general liability insurance policy(ies) to be secured and maintained pursuant to Subsections 10.A and 10.B hereof shall include a provision (whether by endorsement or otherwise) indicating that, except with respect to the coverage limits of insurance and any rights or duties specifically assigned to the named insured or first named insured, such insurance shall apply (1) as if each party insured thereunder (whether as a named insured, additional named insured, or additional insured) were the only party insured by such policy(ies), and (2) separately to each party that is insured thereunder and against whom a claim is made or a suit is brought.

E. Updated Coverage. Coverage hereunder shall be updated to reflect changes in industry standard, but not more than once every five (5) years.

F. Additional Insureds. Under the fire and extended coverage property insurance policy secured and maintained by the County pursuant to Subsection 10.A.3 hereof, BHMC, the City, and their respective officers, employees, agents and volunteers shall be named as Additional Insureds. Under the policies of insurance to be secured and maintained by BHMC pursuant to Subsection 10.B hereof, the County, the City, and their respective officers, employees, agents and volunteers shall be named as Additional Insureds.

G. Evidence of Insurance. The following documents must be delivered by the party obligated by Subsections 10.A and 10.B hereof to the other parties at their respective addresses for notices as specified in or pursuant to Section 13 hereof, as evidence of the insurance coverage secured and maintained by the deliverer:

(1) On or before the date that Benaroya Hall is substantially complete, and thereafter, not later than five (5) Days prior to the expiration or renewal date of each such policy:

a. A copy of the fire and extended coverage property insurance policy's declarations pages, showing the insuring company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements specifying all endorsements listed on the policy including any company-specific or manuscript endorsements;

b. A copy of the endorsement naming The City of Seattle and the other appropriate party and their respective officers, employees, agents and volunteers as an Additional Insured (whether on ISO Form CG 2026 or an equivalent); showing the

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policy number, and the original signature and printed name of the representative of the insurance company authorized to sign such endorsement;

c. A copy of an endorsement stating that the coverages provided by such policy to the City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days prior written notice to the City at its address as specified in or provided pursuant to Section 13 hereof; and

d. For the commercial general liability insurance to be secured and maintained pursuant to Subsection 10.A and 10.B hereof, a copy of the "Separation of Insureds" or "Severability of Interests" clause in such policy or an endorsement thereto indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned to the first named insured, such insurance applies as if each named insured were the only named insured, and separately to each insured against whom any claim is made or suit is brought;

Provided, however, that Subsections .b-.e above shall not apply to the County unless the County, or any successor or assign to the County under this Agreement, ceases to self-insure the exposures specified in Section 10A.1-2.

(2). Pending receipt of the documentation specified in Subsection 10.G.(1) hereof, a copy of each such policy's binder; and

(3) Within thirty (30) Days after the County or BHMC's receipt of a written request therefor, a complete copy of the requested policy with all endorsements thereto.

11. INDEMNITY.

The County, the City and BHMC agree to defend, indemnify and hold harmless each other, their respective officials, agents and employees, from and against any and all claims, damages, injuries, liabilities, actions, fines, penalties, costs and expenses (including reasonable attorney fees) which arise out of or are related to the negligent acts or omissions, or willful misconduct of the indemnifying party (and its officials, agents, employees acting within the course and scope of their employment and contractors (hereinafter "actors")) in performing said party's obligations under this Agreement. In the

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event any such liability arises from the concurrent negligence of the indemnifying party and one or both of the other parties, or their respective actors, the indemnity obligation of this section shall apply only to the extent of the negligence of the indemnifying party and its actors.

The foregoing indemnity is specifically and expressly intended to constitute a waiver of each party's immunity under industrial insurance, Title 51 RCW, as respects the other parties only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated.

The foregoing indemnity shall survive the termination of this Agreement.

12. DEFAULT/REMEDIES.

If any party shall fail fully and timely to perform any of their obligations hereunder after five (5) days written notice from any non-defaulting party, or, if such default is of a nature to require more than five (5) days for remedy and the defaulting party shall fail to commence such cure within five (5) days after notice and proceed diligently until completion, the notifying non-defaulting party may: (i) enforce specific performance of this Agreement; or (ii) exercise any and all other remedies available at law or equity, except that the City shall not have the right to terminate the Easements granted herein. Notwithstanding the foregoing, in the event any party's failure to perform hereunder creates an emergency situation which a non-defaulting party reasonably believes must be addressed before notice can be given, then such non-defaulting party may remedy such default and give notice as soon thereafter as reasonably possible, and the defaulting party shall reimburse such party for any and all expenses incurred in responding to the emergency within ten (10) days after written demand therefor.

13. NOTICE.

Notices and demands required, or permitted, to be sent to those listed hereunder shall be delivered, or sent by certified mail, return receipt requested, postage prepaid, or by Federal Express or other reputable overnight courier service and shall be deemed to have been given upon the date the same is postmarked if sent by certified mail or the day deposited with Federal Express or such other reputable overnight courier service, but shall not be deemed received until one (1) business day (Monday - Friday, excluding legal holidays) following deposit with Federal Express or other reputable overnight courier service or three (3) business days following deposit in the United States Mail if sent by certified mail to the address shown below, and addressed to:

CITY: Debra Lewis

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Sr. Real Property Agent
 City of Seattle
 618 Second Ave 14th Floor
 Seattle, WA 98104
 Tel: (206) 684-0242
 Fax: (206) 684-0525
 debra.lewis@ci.seattle.wa.us

BHMC: Patricia Isacson Sabee
 BH Music Center Director
 200 University St.
 Seattle, WA 98101
 Tel: (206) 215-4800
 Fax: (206) 215-4801
 E-mail: patty.sabee@benaroyahall.org (after July 14)

METRO: Rick Walsh
 General Manager
 Metro Transit Division
 821 Second Ave. MS 55
 Seattle, WA 98104-1598
 Tel: (206) 684-1619
 Fax: (206) 684-1778
 E-mail: rick.walsh@metrokc.gov

or at such other address requested in writing by either party upon thirty (30) days notice to the other parties.

14. SUCCESSORS AND ASSIGNS.

A. County Assignment. The County shall not assign its interests in this Agreement without the prior written approval of the City and BHMC, except to any successor entity responsible for the operation of the Bus Tunnel in the Transit Way.

B. City/BHMC Assignment. Neither the City nor BHMC shall assign its interest in this Agreement without the prior written approval of the County, except to the successor owner of the Property or the successor Tenant under the Lease, respectively.

C. Binding Agreement. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

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15. INTEGRATION.

This Agreement and the exhibits hereto constitute the entire agreement between the parties with respect to the transactions contemplated hereby and supersedes any and all prior and contemporaneous agreements and understandings between the parties hereto relating to the subject matter hereof.

16. HEADINGS.

The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof, nor serve as evidence of the intention of the parties hereto.

17. ATTORNEYS' FEES.

In any suit arising out of this Agreement, the prevailing party, or the party which substantially prevails, as determined by the court, shall be awarded a reasonable amount for its attorneys' fees and expenses of suit.

18. EXPIRATION OR TERMINATION OF LEASE OF BENAROYA HALL.

If the Lease expires or is earlier terminated, BHMC's obligations and liabilities under this Agreement shall automatically terminate, and the City shall assume all of BHMC's obligations and liabilities hereunder. BHMC shall not be liable for any acts or occurrences taking place subsequent to the effective date of such expiration or termination.

19. EFFECT OF ASSIGNMENT.

A. County's Assignment. In the event of a County assignment under Section 14A, the County's obligations and liabilities under this Agreement shall terminate, and the obligations and liabilities hereunder shall transfer to the County's assignee. The County shall not be liable for any acts or occurrences taking place subsequent to the effective date of such assignment.

B. City's Assignment. In the event of a City assignment under Section 14B, the City's obligations and liabilities under this Agreement shall terminate, and the obligations and liabilities hereunder shall transfer to the City's assignee. The City shall not be liable for any acts or occurrences taking place subsequent to the effective date of such assignment.

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C. BHMC's Assignment. In the event of a BHMC assignment under Section 14B, BHMC's obligations and liabilities under this Agreement shall terminate, and the obligations and liabilities hereunder shall transfer to BHMC's assignee. BHMC shall not be liable for any acts or occurrences taking place subsequent to the effective date of such assignment.

20. SEVERABILITY.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

21. COUNTERPARTS.

This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

22. WAIVER.

Either party hereto may specifically waive any breach of this Agreement by the other party, but no such waiver shall constitute a continuing waiver of similar or other breaches. A waiving party may at any time, upon notice given in writing to the breaching party, direct future compliance with the waived term or terms of this Agreement, in which event the breaching party shall comply as directed from such time forward. All remedies, rights, undertakings, obligations and agreements contained in this Agreement shall be cumulative and not mutually exclusive.

23. AMENDMENTS.

This Agreement and its provisions may be changed, waived, discharged or terminated only in writing and agreed to in writing by the party against whom enforcement of the change, waiver, discharge or termination is sought.

24. NO PARTNERSHIP.

Nothing in this Agreement shall be construed to make the parties hereto partners in a joint venture or members of a joint enterprise or participants in any joint undertaking whatsoever.

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25. APPLICABLE LAW AND VENUE. This Agreement shall be construed in accordance with the laws of the State of Washington. Causes of action pertaining to this Agreement shall be brought in King County Superior Court, King County, Washington.

26. NO THIRD PARTY BENEFICIARY. The parties agree and understand that nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies on any person or entity other than the City, BHMC and the County, or their successors or assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

THE CITY OF SEATTLE

By: [Signature]
Its: Acting Executive Services Director

KING COUNTY

By: [Signature]
Its: King County Executive

APPROVED AS TO FORM:

[Signature]
Deputy Prosecuting Attorney

BH MUSIC CENTER

By: [Signature]
Its: Executive Director

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STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Ken Nakatsu is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Acting Executive Services Director of The City of Seattle to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 7/21, 1998.

[Signature]
(Signature)

Lisa S. Peyer
(Name legibly printed or stamped)



Notary Public in and for the State of Washington, residing at Seattle
My appointment expires 5-25-99

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that RON SIMS is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the EXECUTIVE of King County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

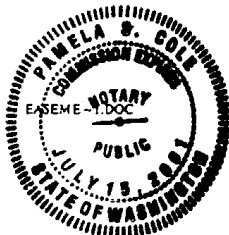
Dated: July 2, 1998.

[Signature]
(Signature)

PAMELA S. COLE
(Name legibly printed or stamped)

(Seal or stamp)

Notary Public in and for the State of Washington, residing at Seattle
My appointment expires 7/15/01



STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Deborah R. Carel is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Exec. Director of BH Music Center to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: July 2, 1998.

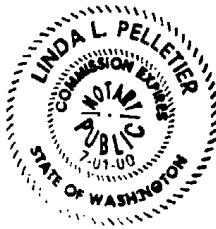
[Signature]
(Signature)

DEBORAH R. CAREL
(Name legibly printed or stamped)

(Seal or stamp)

Notary Public in and for the State of Washington, residing at Kenton, WA
My appointment expires July 1, 2000

Linda L. Pelletier



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EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

Lots 1 through 12 in Block 2, A.A. Denny's Second Addition to the City of Seattle, according to the Plat recorded in Volume 1 of Plats, Page 30, Records of King County, Washington; together with those portions of the alley in such block vacated by Seattle Ordinance 113486 that are adjacent to such lots; except those portions of said lots conveyed for street purposes, situate in King County, Washington; together with all buildings, structures, and improvements situated upon or attached to said property.

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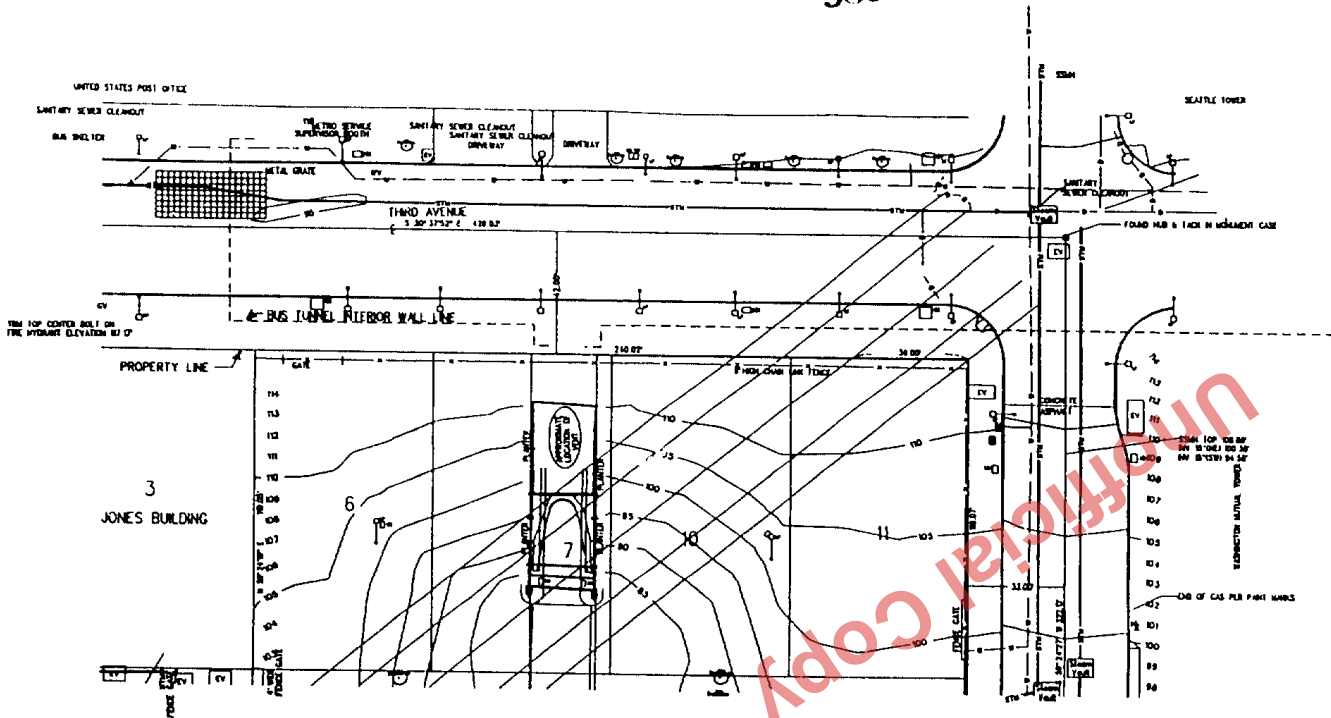
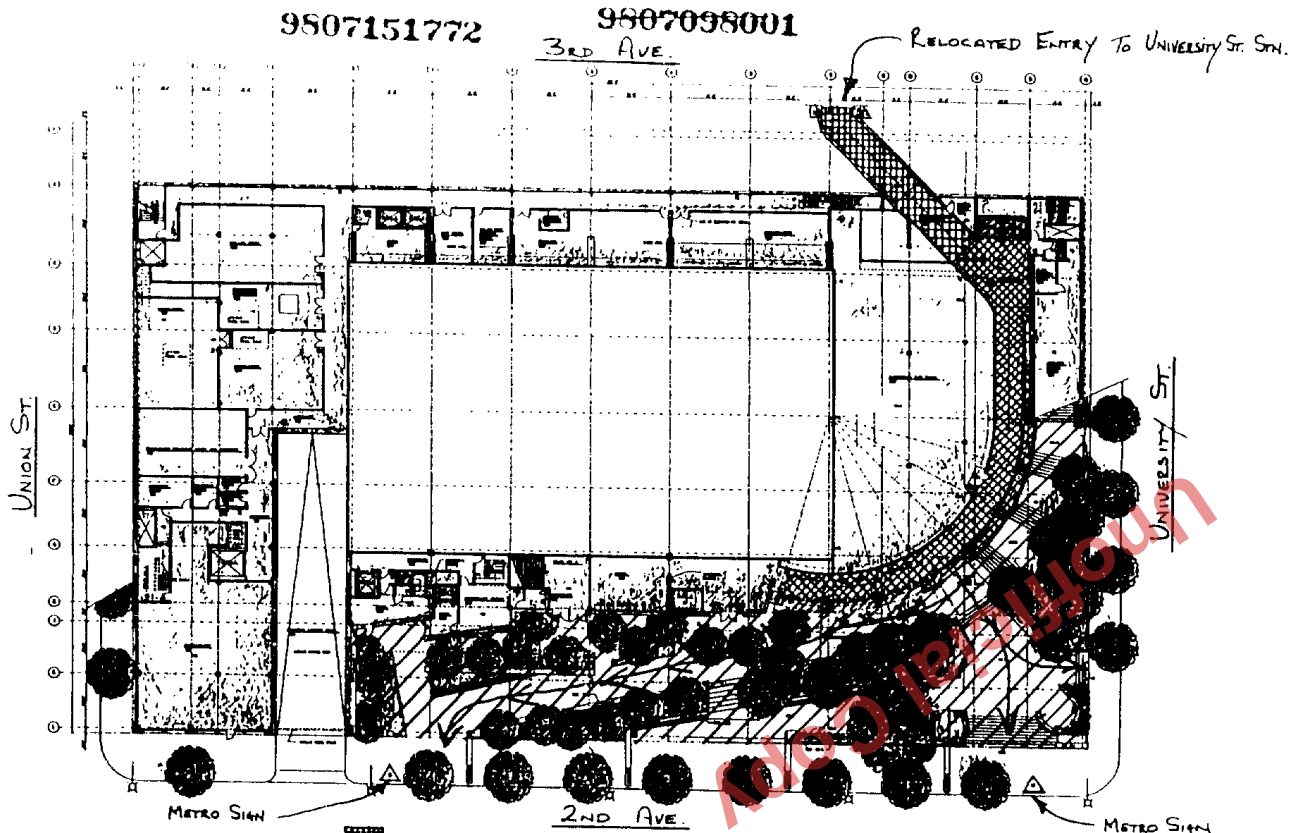


EXHIBIT B



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3RD AVE.

RELOCATED ENTRY TO UNIVERSITY ST. STN.





UNION ST.

UNIVERSITY ST.

2ND AVE.

METRO SIGN

METRO SIGN

- THE ENTRY =
-  STATION PORTION
 -  NON-STATION PORTION / 2ND AVE CONCOURSE
 -  OPEN SPACE
 -  ROUTES THROUGH OPEN SPACE

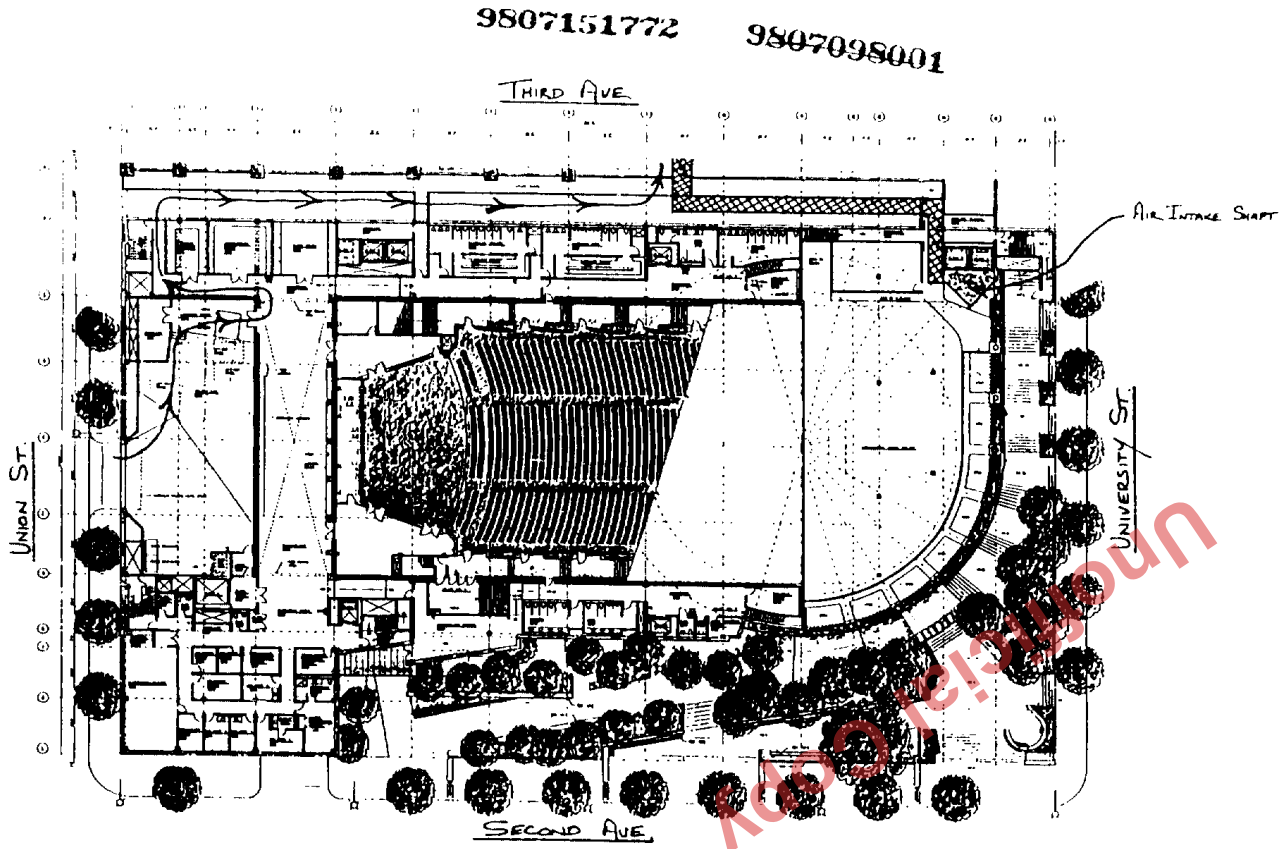
Benaroya Hall



LHM Architects
Cyril M. Harris, PEO, Architectural Consultant

FIRST FLOOR LEVEL
Garden Level Plan

Elevation 28/90

EXHIBIT C.1



 INTAKE AND ASSOCIATED DUCTWORK
 INTAKE ACCESS ROUTE

SECOND FLOOR LEVEL
 Main Stage Level Plan
 Elevation 103

EXHIBIT C.2

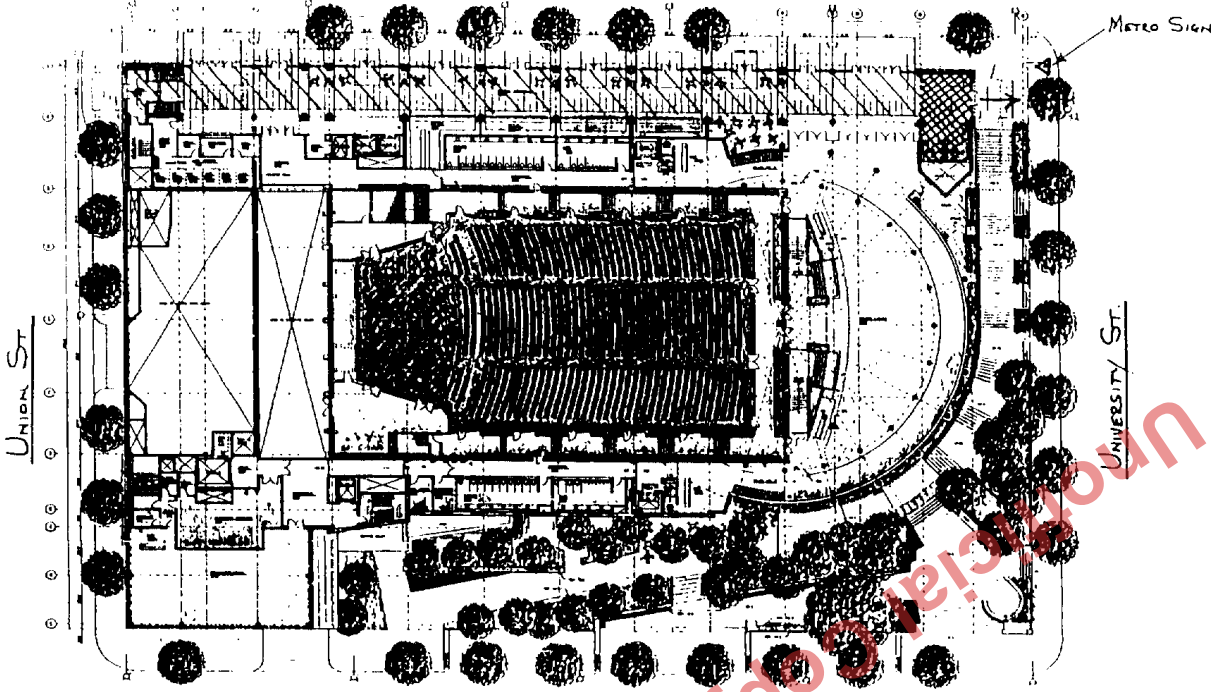
Benaroya Hall




LMH Architects
 Cyril M. Herrle, PhD, Acoustical Consultant

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THIRD AVE



-  THE BOEING COMPANY GALLERY
-  NON-STATION PORTION
THIRD AVE METRO ENTRY
-  ROUTE THROUGH OPEN SPACE

THIRD FLOOR LEVEL
Main Lobby Level Plan

Elevation 114

EXHIBIT C.3

Benaroya Hall

LMN Architects
Cyril M. Lee, II, P.H.D., Architectural Consultant