

Attachment C

2004-377

**PROJECT  
LEASE AGREEMENT**

between

**GOAT HILL PROPERTIES,  
a Washington nonprofit corporation**

as Landlord

and

**KING COUNTY,  
a political subdivision of the State of Washington**

as Tenant

\_\_\_\_\_, 2004

**King County Office Building Project  
Seattle, Washington**

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**Exhibits:**

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Exhibit B	Schedule of Preliminary Plans and Outline Specifications
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Exhibit D	Land
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Exhibit F	Memorandum of Lease
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Exhibit H	Tenant Improvement Schedule
Exhibit I	Form of Notice of Election of Option to Purchase
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Exhibit K	Minimum Insurance Requirements for Developer
Exhibit L	Minimum Insurance Requirements for General Contractor

## PROJECT LEASE AGREEMENT

This Project Lease Agreement ("Lease") is dated for reference purposes \_\_\_\_\_, 2004 and is made by and between **GOAT HILL PROPERTIES**, a Washington nonprofit corporation ("Landlord"), and **KING COUNTY**, a political subdivision of the State of Washington ("Tenant"). Landlord and Tenant agree as follows:

### RECITALS

A. Landlord is the lessee under that certain Garage Ground Lease dated \_\_\_\_\_, 2004 ("Garage Ground Lease"), with Tenant as lessor, pursuant to which Landlord leases that certain real property located in the City of Seattle, King County, Washington ("Garage Land") more specifically described therein.

B. Landlord is also the lessee under that certain Building Ground Lease dated \_\_\_\_\_, 2004 ("Building Ground Lease"), with Tenant as lessor, pursuant to which Landlord leases that certain real property located in the City of Seattle, King County, Washington ("Building Land") more specifically described therein.

C. Tenant desires to have Landlord construct on the Garage Land a \_\_\_\_-story parking structure containing approximately \_\_\_\_\_ parking stalls ("Garage"). Tenant also desires to have Landlord construct on the Building Land a first-class office building to serve as government offices for Tenant containing approximately 250,000 to 300,000 square feet of rentable area ("Building"). The Building will include a parking garage which will contain approximately \_\_\_\_\_ parking spaces. Design and construction of the Garage and the Building are together referred to herein as the "Project."

D. Landlord and Tenant desire to enter into this Lease whereby Tenant shall lease and, upon substantial completion, first occupy the Garage premises and then, upon its subsequent completion, the Building premises at the rent and subject to all of the terms, covenants and conditions set forth herein. This Lease requires that Landlord will cause Wright Runstad Associates Limited Partnership as Developer to design, develop, construct and complete the Project. This Lease provides for Tenant to commence payment of Additional Rent for the Garage Premises upon Substantial Completion of the Garage and to commence payment of both Additional Rent and Monthly Rent for both the Garage and the Building upon Substantial Completion of the Project.

E. Landlord intends to engage Developer to develop, oversee and manage the design, permitting and construction phases of the Project in accordance with the terms and conditions of a Development Agreement for a Fixed Price of \$ \_\_\_\_\_. Subject to the terms and conditions thereof, Developer will provide a financial warranty that the Project will be completed for the Fixed Price.

F. Landlord intends to pay the Fixed Price with the proceeds of tax-exempt obligations which satisfy the requirements of Revenue Ruling 63-20, Revenue Procedure 82-26 and other regulations, interpretations and letter rulings issued by the Internal Revenue Service with respect to such financings.

## AGREEMENT

1. **Definitions.** As used in this Lease, the following capitalized terms shall have the following meanings:

1.1. **“ADA”** means the Americans With Disabilities Act of 1990, as amended from time to time.

1.2. **“Additional Rent”** means the Operating Costs, Taxes, and Utilities, each as defined herein, the costs of maintenance and repair of the Premises (as provided in Section 10.1 hereof), and any other monetary sum to be paid by Tenant to Landlord or to third parties under the provisions of this Lease (other than Monthly Rent).

1.3. **“Architect”** means Zimmer Gunsul Frasca, the architect for the Project selected by Landlord with Tenant’s approval.

1.4. **“Base Shell and Core Building”** means the Building to be constructed on the Building Land, exclusive of the Tenant Improvements. The Base Shell and Core Building is more particularly described in the Preliminary Plans and Outline Specifications.

1.5. **“Base Shell and Core Garage”** means the Garage to be constructed on the Garage Land, exclusive of the Tenant Improvements. The Base Shell and Core Garage is more particularly described in the Preliminary Plans and Outline Specifications.

1.6. **“Bond Closing”** refers to the date the Bond proceeds are available to the Trustee.

1.7. **“Bond Insurer”** means an insurance company which issues a municipal bond insurance policy at the request of Landlord in connection with the issuance of the Bonds, if any. If no Bond Insurer is selected to insure the Bonds, references to the Bond Insurer hereunder shall be deemed to be deleted.

1.8. **“Bonds”** means those tax-exempt obligations to be issued by Landlord which satisfy the requirements of Revenue Ruling 63-20, Revenue Procedure 82-26 and other regulations, interpretations and letter rulings issued by the Internal Revenue Service with respect to such financings, from the proceeds of which Landlord intends to pay, among other things, the Fixed Price.

1.9. **“Building”** means the first-class office building to serve as government offices for Tenant containing approximately 250,000 to 300,000 square feet of rentable area. The Building is more particularly described in the Preliminary Plans and Outline Specifications.



**1.10. "Building Ground Lease"** means the long-term ground lease entered into, or to be entered into, by Goat Hill Properties as tenant and King County as landlord for the Building Land.

**1.11. "Building Land"** means the real property located in the City of Seattle, King County, Washington, more particularly described in the Building Ground Lease.

**1.12. "Calendar Year"** means a calendar year commencing with January 1 and ending with December 31.

**1.13. "Code"** means the Internal Revenue Code of 1986, as amended, or any successor federal income tax statute or code. Any reference to a provision of the Code shall include the applicable Department of Treasury regulations.

**1.14. "Commencement Date"** means the date of Substantial Completion of the Project, which is also the date upon which Tenant's obligation to pay Monthly Rent hereunder commences.

**1.15. "Construction Contracts"** means (i) the General Construction Contract and (ii) all other contracts for construction services entered into between Landlord, or Developer, on behalf of and acting as agent for Landlord, and any Contractor, including the General Contractor, for construction of Tenant Improvements or any other portion of the Project not covered by the General Construction Contract.

**1.16. "Construction Documents"** mean the Construction Drawings and Detailed Specifications approved by Landlord with input from Tenant pursuant to Section 9.3 below, for the construction of the Project, including technical drawings, schedules, diagrams, plans and specifications setting forth in detail the requirements for construction of the Project and providing information customarily required for the use of the building trades.

**1.17. "Construction Drawings"** means drawings setting forth in detail the requirements for the construction of the Project. As used herein, "Construction Drawings" include all graphic and pictorial documents depicting the design, location and dimensions of the elements of the Project (including Tenant Improvements) and include plans, elevations, sections, details, schedules and diagrams for the Project. Construction Drawings may consist of separate Construction Drawings for (i) the Base Shell and Core Garage and the Base Shell and Core Building prepared by the Architect and (ii) the Tenant Improvements prepared by the Interior Architect.

**1.18. "Contract Documents"** means the Construction Documents, the Construction Contracts and the other documents identified as Contract Documents in the General Construction Contract.

**1.19. "Contractors"** means the General Contractor and any other construction contractors with whom Landlord enters into direct contracts upon the written recommendation of Developer, or with whom Developer on behalf of and acting as the Landlord's agent, contracts for the Project.

**1.20. "Detailed Specifications"** means all written detailed requirements for materials, equipment, construction systems, standards and workmanship for the construction of the Project.

**1.21. "Developer"** means Wright Runstad Associates Limited Partnership, a Washington limited partnership, and its successors and permitted assigns under the Development Agreement.

**1.22. "Developer Obligation Date"** for the Project means the date thirty (30) months after Bond Closing. The Developer Obligation Date shall be extended to the extent of (i) Unavoidable Delays; provided, however, that extensions due to Unavoidable Delays shall not exceed ninety (90) days; (ii) Owner-Caused Delays as defined in the Development Agreement directly resulting from the action or failure to act of Tenant such as delays due to Tenant-initiated change proposals); and (iii) delays incurred as a result of the presence of any Hazardous Substances in, on or emanating from the Garage Land or the Building Land as of the Effective Date in excess of the time specifically provided in the approved Project Schedule for remediation of any such Hazardous Substances.

**1.23. "Development Agreement"** means that certain Development Agreement of even date herewith, as amended from time to time, between Developer and Landlord which provides for the development, design, permitting and construction of the Project.

**1.24. "Effective Date"** means the date that this Lease is fully executed, acknowledged and delivered by Landlord and Tenant and (i) with respect to the Garage Land, the date Landlord's right to possession of the Garage Land is effective pursuant to the Garage Ground Lease and (ii) with respect to the Building Land, the date Landlord's right to possession of the Building Land is effective pursuant to the Building Ground Lease.

**1.25. "Environmental Laws"** means, as amended from time to time, the Federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 *et seq.*, Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.*, Federal Hazardous Materials Transportation Control Act, 42 U.S.C. § 1801 *et seq.*, Federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, Federal Water Pollution Control Act, Federal Water Act of 1977, 93 U.S.C. § 1251 *et seq.*, Federal Insecticide, Fungicide and Rodenticide Act, Federal Pesticide Act of 1978, 7 U.S.C. § 136 *et seq.*, Federal Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, Federal Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*, Washington Water Pollution Control Act, RCW ch. 90.48, Washington Clean Air Act, RCW ch. 70.94, Washington Solid Waste Management Recovery and Recycling Act, RCW ch. 70.95, Washington Hazardous Waste Management Act, RCW ch. 70.105, Washington Hazardous Waste Fees Act, RCW ch. 70.95E, Washington Model Toxics Control Act, RCW ch. 70.105D, Washington Nuclear Energy and Radiation Act, RCW ch. 70.98, Washington Radioactive Waste Storage and Transportation Act of 1980, RCW ch. 70.99, Washington Underground Petroleum Storage Tanks Act, RCW ch. 70.148.

**1.26. "Event(s) of Default"** has the meaning set forth in Section 22 of this Lease.

**1.27. "Expiration Date"** means December 31, 2039 (unless sooner terminated pursuant to this Lease).

**1.28. "Final Acceptance"** means that the following events have occurred with respect to the Project prior to Final Payment being made:

(a) The City of Seattle, Washington has issued all temporary certificates of occupancy for the Project.

(b) Each Contractor shall have issued its "Certificate of Substantial Completion" together with its "Affidavit of Payment of Debts and Claims" (AIA Forms 706 and 706A), together with final waivers and releases of lien, in form satisfactory to Landlord, from such materialmen, laborers, contractors and subcontractors as Landlord may require.

(c) All Punch List items have been completed to the reasonable satisfaction of Landlord with Tenant's concurrence for the Project.

(d) Developer shall have submitted its application for Final Payment together with evidence reasonably satisfactory to Landlord that all construction costs for the Project have been paid in full including evidence of full payment for any personal property installed on the Land as part of the Project Costs.

(e) The period for filing construction liens for the Project has expired or releases or discharges of construction liens have been obtained by Developer from all Contractors in accordance with all Construction Contracts.

(f) Architect shall have issued its "Certificate of Final Completion" for the Project and Landlord shall have received the certificate of any other architect or engineer requested by Landlord.

(g) General Contractor shall have issued a certificate that (i) the Project has been finally completed in substantial accordance with the Contract Documents, and (ii) no Hazardous Substances as defined in said certificate were incorporated into the structure of the Project.

(h) Developer shall have delivered to Landlord a written report showing the allocation of Project Costs among the categories of the Project Budget and the remaining specified dollar amount of the Tenant's Contingency, Project Contingency and the undisbursed portion of the Developer's Fee (as defined in the Development Agreement).

(i) Landlord shall have received an endorsement to its title policy dated as of and issued on the date of Final Acceptance, which shall insure Landlord and Trustee (i) against any liens for labor or materials, whether or not of record, which may have arisen in connection with the construction of the Project, and (ii) show no additional exceptions to the title policy other than those approved by or arising through Landlord.

(j) Developer shall have completed and delivered the matters set forth in [Section 14] of the Development Agreement.

1.29. **“Final Payment”** means payment to the Developer, General Contractor and any other Contractors by Landlord following Final Acceptance of the Project.

1.30. **“Fixed Price”** means \$\_\_\_\_\_, the total amount to be paid by Landlord for the design, development, permitting and construction of the Project, and is the price to be paid by Landlord for Project Costs. The Fixed Price includes the amount of the Tenant Improvement Allowance. A detailed description of Project Costs by line item and category is set forth in the Project Budget.

1.31. **“Garage”** means the \_\_\_-story parking structure containing approximately \_\_\_\_\_ parking stalls to be constructed on the Garage Land, including any applicable Tenant Improvements. The Garage is more particularly described in the Preliminary Plans and Outline Specifications.

1.32. **“Garage Ground Lease”** means the long-term ground lease for the Garage site entered into, or to be entered into, by Goat Hill Properties as the tenant and King County as landlord for the Garage Land described on the attached **EXHIBIT D**.

1.33. **“Garage Land”** means the land on which the Garage is located, as more particularly described in **EXHIBIT D** attached hereto and by this reference incorporated herein. Following the Commencement Date, the legal description of the Garage Land may be reconfigured pursuant to Section 1.5 of the Garage Ground Lease, which revised legal description will be reflected in an amendment to this Lease executed by Landlord and Tenant.

1.34. **“General Construction Contract”** means the agreement between Landlord and the General Contractor for construction of the Project.

1.35. **“General Contractor”** means Lease Crutcher Lewis, the general contractor for the Project selected by Landlord with Tenant’s approval.

1.36. **“Hazardous Substance”** means any material, waste, substance, industrial waste, toxic waste, chemical contaminant, petroleum, asbestos, polychlorinated biphenyls, radioactive materials, or other substances regulated or classified by Environmental Laws as hazardous, toxic or lethal to persons or property.

1.37. **“Indenture”** means the trust indenture pursuant to which Landlord will cause the issuance of the Bonds, a copy of which shall be provided to Tenant by Landlord at Bond Closing.

1.38. **“Interior Architect”** means Zimmer Gunsul Frasca, the interior architect for the Project selected by Landlord with Tenant’s approval.

1.39. **“Land”** means both the Garage Land and the Building Land.

1.40. **“Landlord”** means Goat Hill Properties, a Washington nonprofit corporation, its successors and permitted assigns.

1.41. **“Laws”** means any constitution, statute, ordinance, regulation, rule, resolution, judicial decision, administrative order or other requirement of any federal, state, county, municipal or other governmental agency or authority having jurisdiction over the parties or the Premises, or both, in effect either at the time of execution of this Lease or at any time during the Term, including without limitation, any regulation or order of a quasi-official entity or body (e.g., board of fire examiners or public utilities) and all rules, laws and regulations issued thereunder, as the same may be amended from time to time.

1.42. **“Lease Year”** means each succeeding year of the Term, commencing with the Commencement Date and ending with the date which is one (1) day less than one (1) year later.

1.43. **“Liens”** means any lien, charge, security interest or encumbrance, except the Indenture and the Mortgage, which may be attached to, upon or against the Premises or any portion thereof.

1.44. **“Monthly Rent”** means the rent payable by Tenant under this Lease from the Commencement Date to and including the Expiration Date in the amounts for each Lease Year as set forth on the Schedule of Monthly Rent annexed hereto as **EXHIBIT A** and by this reference incorporated herein.

1.45. **“Mortgage”** means the (a) Leasehold Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing; (b) Assignment of Leases and Cash Collateral; (c) applicable Uniform Commercial Code financing statements; and (d) other security documents executed by Landlord in connection with or to secure the Bonds.

1.46. **“Notice Address”** means, as to each of the Notice Parties, its respective address as specified in or pursuant to Section 32.7 of this Lease.

1.47. **“Notice Parties”** means each of Landlord, Tenant, Trustee and Bond Insurer.

1.48. **“Operating Costs”** has the meaning given to it in Section 5 of this Lease.

1.49. **“Permitted Use”** has the meaning given to it in Section 7 of this Lease.

1.50. **“Preliminary Plans and Outline Specifications”** are the initial renditions for the Base Shell and Core Garage and the Base Shell and Core Building pursuant to site plan approvals issued with respect to the Project by the City of Seattle, a schedule of which plans and specifications is attached hereto as **EXHIBIT B** and incorporated herein by this reference.

1.51. **“Premises”** means the entirety of the Garage to be constructed on the Garage Land and the Building to be constructed on the Building Land together with a leasehold interest in the Garage Land pursuant to the Garage Ground Lease and a leasehold interest in the Building Land pursuant to the Building Ground Lease.

1.52. **“Project”** means the total design and construction, including demolition of existing improvements on the Garage Land and the Building Land, all professional design

services, and all labor, materials and equipment used or incorporated in such design and construction of (i) the Garage to be constructed on the Garage Land and (ii) the Building to be constructed on the Building Land. The Project shall include work which is consistent with and reasonably inferable from the approved Project Requirements as being necessary to produce the intended results and may include the acquisition of certain light, view or other easements or property interests benefiting the Project not included in the Project Requirements to the extent that the cost thereof is paid from the Tenant's Contingency.

**1.53. "Project Budget"** means the budget for development of the Project as revised from time to time by Developer and Landlord, in accordance with the Development Agreement.

**1.54. "Project Contingency"** means the contingency by that name set forth in the Project Budget. The amounts of the various line items of the Project Budget are estimates only of the Project Costs to be incurred. To the extent the actual Project Costs in any line item of the Project Budget exceed the amount shown for such line item, Developer shall first allocate amounts in other line items, in which the actual known Project Costs will be less than the amount of the Project Budget, to the line item in which the excess Project Cost has been incurred. Following the allocation by Developer as set forth in the preceding sentence with respect to all line items, Developer is entitled to draw upon the Project Contingency for such excess Project Costs.

**1.55. "Project Costs"** means all costs for the completion of the development, design, permitting and construction of the Project, including, without limitation, all demolition costs, all permit fees, all costs of the Base Shell and Core Garage, Base Shell and Core Building, HVAC, electrical and other building systems, all costs of Tenant Improvements, all costs of fixtures, furnishing and equipment described in the Construction Documents, all costs of architectural services provided by the Architect, all costs of services provided by the Interior Architect with respect to the Tenant Improvements, all other professional design and other services provided by Contractors or other professionals engaged by Developer or General Contractor, all amounts paid to General Contractor under the General Construction Contracts including all labor, material, and equipment used or incorporated in such design and construction, all amounts paid to other Contractors and subcontractors, if any, under any other Construction Contract or subcontract entered into by Landlord upon the written approval of Developer or by Developer on behalf of and acting as the Landlord's agent in connection with the Project, including all labor, material, equipment used or incorporated in such design and construction, services provided by engineers, environmental consultants, surveyors and other professionals and consultants retained by Developer in connection with the Project, Developer's Overhead Allowance and Developer's Fee (each as defined in the Development Agreement), insurance (other than Bond insurance), bonds (other than the Bonds), applicable state and local retail sales, business and occupation and other taxes (including real property taxes and assessments accruing from commencement of construction to Substantial Completion of the Project), plus the Project Contingency; excluding only (a) Tenant's Personal Property and any taxes thereon (which shall be paid by Tenant at its sole cost and expense), (b) financing costs in connection with the issuance of the Bonds, (c) costs for art or similar enhancements that are not included in the Project Requirements and not paid from the Tenant's Contingency; (d) costs of acquiring certain light, view or other easements or property interests benefiting the Project that are not included in the Project Requirements and are not paid

from the Tenant's Contingency; (e) costs of removing or remediating any Hazardous Substances in, on or emanating from the Garage Land or the Building Land in excess of the amount specifically set forth in the Project Budget for Environmental Remediation (as defined in the Development Agreement); (f) to the extent not reflected in the Preliminary Plans and Outline Specifications, costs of any off-site improvements required as a condition to or in connection with the development or construction of the Project; and (g) Costs Not To Be Reimbursed (as defined in the Development Agreement).

**1.56. "Project Requirements"** means the Preliminary Plans and Outline Specifications and other requirements for the Project specifically agreed to by Landlord and Developer.

**1.57. "Project Schedule"** means the schedule for development and construction of the Project as revised from time to time by Developer and Landlord in accordance with the Development Agreement; provided, however, that in no event shall the Project Schedule provide for Substantial Completion of the Project to occur later than thirty (30) months after Bond Closing without the concurrence of Tenant. The initial Project Schedule is set forth in **EXHIBIT C** attached hereto and by this reference incorporated herein.

**1.58. "Punch List"** means a list of items required to be completed prior to Final Acceptance that are minor items which do not affect Landlord's ability to lease the Premises to Tenant and do not affect Tenant's ability to use the Premises for their Permitted Use.

**1.59. "Rent"** means the sum of Monthly Rent and Additional Rent, each as defined herein.

**1.60. "Requirements of Law"** means all requirements relating to land and building construction (including those specifically applicable to Tenant's contemplated use of the Premises as a government office building), including, without limitation, planning, zoning, subdivision, environmental, air quality, flood hazard, fire safety, accessibility, and other governmental approvals, permits, licenses and/or certificates as may be necessary from time to time to comply with all the foregoing and other applicable statutes, rules, orders, regulations, laws, ordinances, and covenants, conditions and restrictions, which now apply to and/or affect the design, construction, existence, intended use, operation and/or occupancy of the Land, the Premises or any part thereof.

**1.61. "State Nonprofit Corporation Act"** means the Washington Nonprofit Corporation Act, Chapter 24.03 RCW, as amended from time to time.

**1.62. "Substantial Completion of the Garage"** means that each of the following events shall have occurred with respect to the Garage:

(a) Developer shall have notified Landlord in writing that the Garage, including all Tenant Improvements are Substantially Complete in substantial accordance with the Contract Documents, subject only to the completion of normal Punch List items;

(b) Architect shall have issued its "Certificate of Substantial Completion" (AIA Document G704) stating that the work under the Construction Contracts is

sufficiently complete in substantial accordance with the Contract Documents to permit Tenant to occupy or utilize the Garage portion of the Premises for its Permitted Use;

(c) The City of Seattle has issued a temporary certificate of occupancy such that Tenant is permitted to and could, pursuant to such issued certificate of occupancy, physically occupy the Garage portion of the Premises for its Permitted Use;

(d) Landlord has received satisfactory evidence from Developer that all real property taxes and assessments on the Garage payable by Developer that were due and owing have been paid;

(e) Each Contractor shall have issued its "Certificate of Substantial Completion" together with its "Affidavit of Payment of Debts and Claims" (AIA Forms 706 and 706A), together with partial waivers and releases of lien for work performed prior to the date of its "Certificate of Substantial Completion" in form satisfactory to Landlord, with Tenant's concurrence, from such materialmen, laborers, contractors and subcontractors as Landlord, with Tenant's concurrence, may require; and

(f) Landlord, with Tenant's concurrence, shall have accepted the Garage as Substantially Complete, subject to completion of the Punch List items agreed upon by Landlord, with Tenant's concurrence.

**1.63. "Substantial Completion of the Project"** means that each of the following events shall have occurred with respect to the Project:

(a) Developer shall have notified Landlord in writing that the Project, including all Tenant Improvements are Substantially Complete in substantial accordance with the Contract Documents, subject only to the completion of normal Punch List items;

(b) Architect shall have issued its "Certificate of Substantial Completion" (AIA Document G704) stating that the work under the Construction Contracts is sufficiently complete in substantial accordance with the Contract Documents to permit Tenant to occupy or utilize the Premises for its Permitted Use;

(c) The City of Seattle has issued a temporary certificate of occupancy such that Tenant is permitted to and could, pursuant to such issued certificate of occupancy, physically occupy the Premises for its Permitted Use;

(d) Landlord has received satisfactory evidence from Developer that all real property taxes and assessments on the Project payable by Developer that were due and owing have been paid;

(e) Each Contractor shall have issued its "Certificate of Substantial Completion" together with its "Affidavit of Payment of Debts and Claims" (AIA Forms 706 and 706A), together with partial waivers and releases of lien for work performed prior to the date of its "Certificate of Substantial Completion" in form satisfactory to Landlord, with Tenant's concurrence, from such materialmen, laborers, contractors and subcontractors as Landlord, with Tenant's concurrence, may require; and



(f) Landlord, with Tenant's concurrence, shall have accepted the Project as Substantially Complete, subject to completion of the Punch List items agreed upon by Landlord, with Tenant's concurrence.

**1.64. "Substantially Complete"** means that the Garage or Project, as applicable, has been constructed in substantial accordance with the Contract Documents and: (a) all elements required for the functioning of the Garage or Project, as applicable, shall be operational and in good working order and condition including satisfying applicable ADA building requirements and the Washington State Law Against Discrimination, RCW ch. 49.60, as well as regulations adopted thereunder; (b) the Garage or Project, as applicable, shall be weather tight and waterproof; (c) the fire and life safety systems within the Garage or Project, as applicable, shall be operational and in good working order and condition; (d) the elevators shall operate and function in good working order and condition, but may still require touch up installation and cleaning; (e) the mechanical and electrical systems, including the HVAC system, shall be individually tested and in good working order able to support the Garage or Project, as applicable, and shall also be tested to assure that the Garage or Project, as applicable, systems operate on an integrated basis, but the HVAC system may still require final balancing work; (f) the finish work is substantially completed, including, but not limited to public lobby, elevator, HVAC, plumbing, fire and life safety, sprinkler and electrical systems, doors, partitions, cabinetry, carpet and base, including removal of all construction debris; (g) all site utilities, sidewalks and landscaping are substantially completed and construction barricades and equipment have been removed; (h) the parking garage, including parking garage elevators and lobbies, and all entrances and exits thereto are completed; and (i) the access and security systems for the Garage or Project, as applicable, are installed and operational, except in each case minor Punch List items which do not materially affect use and occupancy of the Garage or Project, as applicable, for its Permitted Use.

**1.65. "Taxes"** means all real property taxes and assessments (including assessments for special improvements), license and permit fees, charges for public utilities, leasehold excise taxes, other excise taxes, levies, sales, use and occupancy taxes, any tax or charge assessed against the Rent or fair market value of the Premises and any taxes levied or assessed in addition to or in lieu of, in whole or in part, such taxes, assessments or other charges and all other governmental impositions and charges of every kind and nature, general and special, ordinary and extraordinary, foreseen and unforeseen of every character (including interest and penalties thereon) which at any time from and after the Commencement Date of this Lease may be imposed, levied upon or assessed against or which arise with respect to or constitute a lien upon the Land, the Premises (or any part thereof), the leasehold estate created by this Lease or any part thereof, or any estate, right or interest therein, or any occupancy, use or possession of or activity conducted on the Premises or any part thereof. Taxes shall not include any tax computed on the basis of Landlord's net income.

**1.66. "Tenant"** means King County, a political subdivision of the State of Washington, and its successors and permitted assigns, as the tenant under this Lease.

**1.67. "Tenant Improvement Allowance"** means, within the Fixed Price, an allowance of \$\_\_\_\_\_ to cover the design and construction costs of the Tenant Improvements.

**1.68. "Tenant Improvements"** means any improvements to the interior of the Project beyond the Base Shell and Core Garage and the Base Shell and Core Building, including data wiring, all of which are more specifically described in the Construction Documents.

**1.69. "Tenant's Construction Representative"** means the \_\_\_\_\_ of King County's Property Services Division or such designee as may be named in a notice from Tenant to Landlord given from time to time.

**1.70. "Tenant's Contingency"** means the contingency in the amount of \$ \_\_\_\_\_ which may be used to cover any changes in the Project resulting from any material improvements or deviation required by Tenant from the design or level of quality reflected in the Preliminary Plans and Outline Specifications as set forth in Section 9.4 below or for Tenant Improvements requested by Tenant which exceed the Tenant Improvement Allowance.

**1.71. "Tenant's Personal Property"** means Tenant's furniture, equipment and movable property placed in the Premises by the Tenant and any property installed in or about the Premises by Tenant; provided, however, that fixtures, furnishing and equipment described in the Construction Documents as being part of the Project are not deemed to be part of Tenant's Personal Property. Tenant shall provide Tenant's Personal Property at Tenant's sole cost and expense.

**1.72. "Term"** means the period beginning on the Effective Date and ending on the Expiration Date.

**1.73. "Trustee"** means a national bank or other financial institution with trust powers selected by Landlord to serve as the bond trustee under the Indenture or any duly authorized successor thereto appointed pursuant to the Indenture.

**1.74. "Unavoidable Delays"** means any delay in the performance by Developer or General Contractor of its obligations with respect to construction of the Project caused by strikes (other than those directly caused by Developer's acts, omissions or failures to bargain in good faith), acts of God, unusually inclement weather, unavoidable casualties and similar causes which, after the exercise of due diligence to mitigate the effects thereof, delay construction of the Project, other than such delays resulting from (a) Developer's or General Contractor's failure to comply with the terms and provision of the Development Agreement or the General Construction Contract, (b) increased prices, or (c) unavailability of funds, provided the Fixed Price is paid in accordance with the Development Agreement. Unavoidable Delays will entitle Developer to request an extension of time within which to complete the Project but will in no way entitle Developer to additional compensation. In the event of any Unusually Severe Weather Conditions (as defined in the Development Agreement), the length of Unavoidable Delay to become effective under this Lease as a result of such condition shall be the period of time (not less than one day) by which Developer's progress in constructing the Project has reasonably been delayed as a result of such Unusually Severe Weather Conditions, all as more specifically set forth in the Development Agreement.

**1.75. "Utilities"** means all utilities and services furnished to the Premises, including without limitation, gas, electricity, water, sewer, garbage collection, and telephone service.

**2. Premises.** Landlord leases to Tenant and Tenant leases from Landlord the Premises for the Term. Tenant shall not, however, be entitled to occupy (i) the Garage portion of the Premises until the date of Substantial Completion of the Garage and (ii) the Building portion of the Premises until the date of Substantial Completion of the Project.

**3. Term.** The Term shall commence on the Effective Date and shall expire on the Expiration Date; provided, however, that the obligation of the Tenant to pay Monthly Rent shall not commence until the Commencement Date. Landlord and Tenant shall confirm the Commencement and Expiration Dates by executing within fifteen (15) days after the Commencement Date, a written Confirmation of Commencement and Expiration Dates in the form attached hereto as **EXHIBIT E**, which Confirmation of Commencement and Expiration Dates shall become a part of this Lease and be binding upon Landlord and Tenant to establish the actual Commencement Date and Expiration Date of the Term. Notwithstanding that the obligation of Tenant to pay Monthly Rent under this Lease shall not commence until the Commencement Date, all of the other terms and provisions of this Lease shall be effective from and after the Effective Date (except as otherwise provided herein).

**4. Monthly Rent.**

**4.1 Obligation to Pay Rent.** Commencing on the Commencement Date, Tenant shall pay to Landlord or as Landlord may otherwise direct in writing and without deduction, offset, prior notice or demand, in advance on the first day of each month during the Term an amount equal to Monthly Rent; provided, however, that the first payment of Monthly Rent shall also include an amount in arrears for the prorated Monthly Rent due and owing from the Commencement Date through and including the last day of the month preceding such first payment date; and provided further, that Tenant may elect to offset against its obligation to pay Monthly Rent amounts in the Debt Service Account held by Trustee under the Indenture that are available to pay the principal of or interest on the Bonds, to the extent permitted under the Indenture. Tenant acknowledges that time is of the essence in payment of Monthly Rent since Landlord intends to use Monthly Rent to make principal and interest payments on the Bonds.

**4.2 Proration of Rent.** Monthly Rent for any partial month shall be prorated on a daily basis at the rate of 1/30th of the Monthly Rent. All Monthly Rent shall be paid to Landlord at Landlord's Notice Address or as otherwise directed in writing by Landlord.

**4.3 Rent a General Obligation.** Tenant's obligation to pay Rent constitutes a limited tax general obligation of the Tenant. Tenant irrevocably covenants and agrees that it will include in its annual budget and levy taxes annually on all taxable property within King County, within and as a part of the tax levy permitted to Tenant without a vote of the electors, amounts sufficient, together with all other money legally available and to be used therefor, to pay Rent as the same shall become due. The full faith, credit and resources of Tenant are irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such Rent.

**4.4 Defeasance.** In the event that money and/or "Government Obligations," as such obligations are now or may hereafter be defined in Chapter 39.53 RCW, maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to pay or prepay all Monthly Rent and to pay any Additional Rent then due under this Lease in accordance with the terms of this Lease, are irrevocably set aside and pledged in a special account created pursuant to [Section 10.02] of the Indenture to effect such payment or prepayment and defeasance of the Bonds, then upon such pledge, this Lease shall automatically terminate, no further payments need be made of any Monthly Rent under this Lease and Landlord shall not be entitled to any lien, benefit or security in the Premises, except the right to receive the funds so set aside and pledged, and Landlord shall have no further obligation to Tenant hereunder. Landlord shall apply such prepaid Rent to the defeasance or redemption of Bonds in accordance with the Indenture.

**5. Additional Rent; Payment of Operating Costs, Taxes and Utilities.**

**5.1 Absolute Net Lease.** Tenant acknowledges that this Lease is an absolute net lease. From and after the date of Substantial Completion of the Garage with respect to the Garage portion of the Premises and from and after the Commencement Date with respect to the entire Premises, Tenant shall, for such portion of the Premises, (i) provide for and pay costs of maintenance and operation in accordance with Section 10.1 hereof, (ii) pay Taxes, (iii) pay Utilities, and (iv) reimburse Landlord for all Operating Costs. Prior to the date of Substantial Completion of the Garage with respect to the Garage portion of the Premises and the Commencement Date with respect to the Building portion of the Premises, all Operating Costs, if any, Taxes and Utilities relating to such portion of the Premises shall be paid by Developer or Landlord pursuant to the provisions of the Development Agreement.

**5.2 Operating Costs.** In accordance with Section 5.7 hereof, Tenant shall pay as Additional Rent amounts sufficient to reimburse Landlord for all Operating Costs incurred by Landlord and identified in this Section 5.2. All other costs of operating and maintaining the Premises shall be paid directly by Tenant pursuant to Section 10.1 hereof. Operating Costs means any and all costs and expenses directly related to ownership and operation of the Premises and invoiced by Landlord from and after the date of Substantial Completion of the Garage with respect to the Garage portion of the Premises and the Commencement Date with respect to the Building portion of the Premises in connection with:

(a) the repair, replacement, operation, and maintenance of the Premises, including, without limitation, interior and exterior maintenance, all exterior doors and windows, elevators, sidewalks, driveways, interior perimeter and interior partition walls and finishes (including periodic painting thereof), exterior wall finishes, broken glass in exterior and interior doors and windows, roof, floor covering, window frames, gutters and downspouts, HVAC system, landscaping and all other areas used in connection with the Premises, excluding those costs described in Section 5.3(h)-(i);

(b) the asset management fee paid Landlord pursuant to Section 10.2(c);

(c) the property management fees, if any, paid to the entity or entities managing the Premises under property management contracts entered into pursuant to Section 10.2(a) of this Lease;

(d) the auditing fees incurred by Landlord in connection with the preparation of the financial statements required under Section 10.2(b) of this Lease;

(e) if Tenant requests that Landlord hire an operator of the parking operations within the Premises, any expenses, fees, and charges paid to such operator of the parking operations within the Premises, provided that such fees are competitive with then current market rates and that any parking management contract complies with Revenue Procedure 97-13 or any successor revenue procedure issued by the Internal Revenue Service governing management, operation, or other service contracts in connection with the issuance of tax exempt obligations;

(f) all costs of services furnished by or through Landlord, if any, in connection with the Premises, including janitorial, security, gardening, landscaping, and related costs and expenses, licenses, permits, and inspection fees, the cost of supplies, materials, equipment, and tools used in connection with the maintenance, operation, or repair of the Premises and all other reasonable, necessary and customary costs and expenses directly related to the operation, maintenance, and repair of the Premises (provided, however, that if, with the prior written approval of Tenant or upon Tenant's material uncured default hereunder or a default by Tenant under a property management agreement executed for the Premises, Landlord contracts with any non-governmental and non-public entity for property management services or other services relating to the Premises, Landlord shall be required to obtain such services at rates generally competitive in the marketplace);

(g) any damage to the Premises (but not to Tenant's Personal Property) caused by breaking and entering or other criminal act and not covered by insurance;

(h) all costs of compliance with governmental laws or the board of fire underwriters (or similar organization) now or hereafter constituted as applicable to the Premises;

(i) all insurance premiums for insurance required to be carried under this Lease (including loss of rent insurance);

(j) all costs resulting from Owner-Caused Delay (as described in the Development Agreement) and all other additional costs and liabilities that Landlord may incur under the Development Agreement as a result of decisions, determinations, change orders, or other actions or omissions made by Tenant, but excluding any such costs (i) paid from the Tenant's Contingency or (ii) incurred as a result of Landlord's negligence, Landlord's intentional misconduct, or Landlord's direct breach of provisions of the Development Agreement;

(k) all attorneys' fees and other costs incurred by Landlord in efforts to enforce the provisions of the Development Agreement and/or the General Construction Contracts, to remove construction Liens from the Premises, or to enforce product or workmanship warranties given by Developer, General Contractor, or other Contractors or suppliers of equipment or materials (unless Tenant desires that Landlord instead assign such

warranties to Tenant in accordance with Section 5.8 hereof), but only to the extent that such costs have not been paid from the Owner Contingency or reimbursed by or recovered from Developer or General Contractor;

(l) Trustee's fees for the Bonds, any rebate payable with respect to the Bonds, costs payable in connection with any defeasance or prepayment of Monthly Rent and any defeasance or redemption of the Bonds;

(m) the commercially reasonable cost to retain Developer or any other qualified contractor to assist in the commissioning of the Garage and the Building during the two years following the Substantial Completion of the Project; and

(n) all other costs reasonably incurred by Landlord in connection with the ownership, leasing (under this Lease), maintenance, and upkeep of the Premises in order to: (i) prevent any dangerous or unsafe condition on the Premises that could result in liability to Landlord or its officers, employees, directors, or other agents, or (ii) comply fully with and to avoid or to cure any default under the Indenture, Mortgage, and other documents relating to the Bonds and all Requirements of Law; provided, however, that prior to incurring any such costs, Landlord shall (except for costs advanced under emergency circumstances to protect the Premises from immediate risk of danger or destruction) have given Tenant and/or the property manager under any property management agreement reasonable notice (i.e., the lesser of 30 days or such shorter period as is permitted under the Indenture, Mortgage, or other Bond documents to avoid an imminent default or to cure a default for which notice has already been given) of Landlord's intention to take such action to remove such dangerous condition or to achieve such compliance with the Bond documents and shall have given Tenant the first opportunity to take such curative action, prior to Landlord taking such action itself.

Notwithstanding the foregoing list of Operating Costs, which Landlord may incur from time to time, as described in this Section 5.2, and which Tenant shall pay as Additional Rent, the listing of such items as Operating Costs is not intended to suggest that Landlord has a duty to maintain or repair the Premises or to take any other actions that Landlord is not expressly obligated to undertake under other provisions of this Lease.

**5.3 Exclusions from Operating Costs.** Operating Costs shall exclude:

- (a) costs of the Project;
- (b) costs arising from Landlord's political or charitable contributions;
- (c) fines, penalties and interest penalties incurred as a result of Landlord's negligence or unwillingness to make payments when due or take such other actions as may be required;
- (d) legal fees, accountant's fees and other expenses incurred in connection with (a) disputes with Tenant or associated with the interpretation of the terms of this Lease (unless Tenant is otherwise required to pay such fees and expenses pursuant to Section 29 of this Lease); or (b) legal proceedings arising out of Landlord's violation of the terms of this Lease;

(e) costs of any service provided to Tenant for which Landlord is reimbursed, or any other expense for which Landlord is or will be reimbursed by another source (i.e., expenses covered by insurance or warranties);

(f) fees to Landlord for goods or services in excess of the fees that would typically be charged by unrelated, independent persons or entities for similar goods and services;

(g) Taxes and Utilities paid by the Tenant directly to the applicable government authority or utility provider pursuant to the provisions of Section 5.4 and Section 6 of this Lease;

(h) repairs or replacements made to rectify or correct any latent defect(s) in the original design, materials or workmanship of the Project, as originally constructed, to the extent of and in the amount that the cost of such repairs or replacements are paid to Landlord (i) from the Owner Contingency or (ii) by reimbursement or other recovery from Developer, General Contractor, any other Contractor, or any other party who may be obligated to Landlord to pay or reimburse for such repairs, including, but not limited to, warranty claims; and

(i) repairs or replacements necessitated by the negligence or willful misconduct of Landlord, Landlord's employees, contractors or agents.

**5.4 Payment of Taxes by Tenant.** Tenant shall be liable only for Taxes that accrue from and after the date of Substantial Completion of the Garage with respect to the Garage portion of the Premises and the Commencement Date with respect to the Building portion of the Premises. Tenant shall pay all Taxes directly to the applicable governmental agency prior to delinquency and shall provide proof of such payment promptly to Landlord and Trustee. To the extent Taxes or other charges can be paid in installments, Tenant may pay such Taxes in installments. With respect to any general or special assessments which may be levied against or upon the Premises, or which under the Laws then in force may be evidenced by improvement or other bonds or may be paid in annual installments, only the amount of such annual installment, and interest due thereon, shall be included within the computation of Taxes.

**5.5 Real Property Tax Statements.** Tenant shall make appropriate arrangements to receive directly from the applicable governmental agency assessment notices and real property tax statements for the current year and Tenant shall provide a copy thereof promptly to Landlord and Trustee.

**5.6 Right to Contest Taxes.** If Landlord receives prior notice that an appraisal of the Premises, or any portion thereof, will be conducted for real property tax purposes, Landlord shall so notify Tenant and permit Tenant to be present during such appraisal if Tenant so elects. Tenant shall have the right in Landlord's name and stead, and at Tenant's sole expense, to contest the validity or amount of any real property taxes provided all such taxes are paid when and as due. Landlord shall cooperate with Tenant and provide reasonable assistance with respect to any such contest, including, without limitation, such information and supporting documents as may be reasonably requested by Tenant. Notwithstanding any

provision of this Lease to the contrary, Tenant shall not be required, nor shall Landlord have the right, to pay, discharge or remove any such real property tax so long as no Event of Default has occurred and Tenant is contesting the existence, amount, applicability or validity thereof by appropriate proceedings conducted in good faith with due diligence. In the event Landlord shall obtain a tax refund as a result of any such tax appeal or other proceedings Tenant shall be entitled to, and Landlord shall promptly pay to Tenant, all such tax refunds.

**5.7 Payment of Operating Costs.** From and after the date of Substantial Completion of the Garage with respect to the Garage portion of the Premises and the Commencement Date with respect to the Building portion of the Premises, Tenant shall in accordance with Section 5.2, reimburse Landlord for all Operating Costs within thirty (30) days of receiving an invoice therefor from Landlord. If Tenant fails to pay Taxes or Utilities, Landlord may advance funds to pay such items and demand reimbursement from Tenant within ten (10) days of making such advance.

**5.8 Warranties.** During the Term of this Lease, Landlord shall exert its good faith and diligent efforts to enforce any and all applicable warranties, express or implied, in connection with defects which may arise in the original design, materials or workmanship of the Premises as originally constructed. At Tenant's request, Landlord shall assign to Tenant any warranty right held by Landlord with respect to the original design, materials or workmanship of the Premises, as originally constructed.

**6. Utilities.** From and after the Substantial Completion of the Garage with respect to the Garage portion of the Premises and the Commencement Date with respect to the Building portion of the Premises, Tenant shall be solely responsible for and shall pay separately for all charges for Utilities used or consumed in such portions of the Premises. It is understood that Landlord shall not be required to provide any Utilities to Tenant, and Tenant shall make any necessary arrangements to have all such Utilities billed directly to and paid for directly by Tenant.

**7. Use.** Tenant intends to use the Premises for a parking garage (as to the Garage), for government offices (as to the Building) and for other municipal purposes and may use the Premises for any other lawful use consistent with the provisions of this Section 7 (the "Permitted Use"). The aggregate square footage of leasable space in the Premises that is subleased by Tenant to private persons shall not be more than 10% of the rentable square footage without the prior written consent of the Bond Insurer; provided, however, that Landlord, Bond Insurer, Trustee and Tenant receive an opinion of nationally recognized bond counsel that any such sublease will not adversely affect the tax-exempt status of interest payable on the Bonds. Tenant has determined to its satisfaction that the Premises can be used for the Permitted Use. Tenant's use of the Premises shall be in accordance with the following:

**7.1 No Insurance Cancellation.** Tenant shall not do, bring, or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises.

**7.2 Compliance with Laws.** From and after the Commencement Date of this Lease, or such earlier date as Tenant occupies the Premises or any portion thereof, Tenant shall comply with all Laws concerning the Premises and Tenant's use of the Premises, including



without limitation, Environmental Laws. Tenant shall not use the Premises for the transportation, storage or generation of any Hazardous Substances in violation of Environmental Laws. From and after the Commencement Date of this Lease or such earlier date as Tenant occupies the Premises, and to the extent permitted by law, Tenant shall absolutely and unconditionally indemnify, defend and hold Landlord harmless from and against any and all debts, demands, obligations, liens, judgments, claims, liabilities, losses, damages, cleanup costs and expenses (including reasonable attorneys' fees) now or hereafter arising in connection with the presence, transportation, storage, disposal or handling of Hazardous Substances located in, on or about the Premises or Land caused by or resulting from the actions of Tenant, its agents or employees after the Commencement Date of this Lease or such earlier date as Tenant occupies the Premises, excluding (a) any Hazardous Substances present on the Land or the Premises prior to the Commencement Date of this Lease or which migrates onto the Land from property not owned by Tenant through no act or omission of Tenant; (b) any such debt, demand, obligation, lien, judgment, claim, liability, loss, damage, cleanup cost or expense resulting from the actions or omissions of Landlord, Developer, General Contractor and their respective agents, employees, contractors, subcontractors or invitees; or (c) any debt, demand, obligation, lien, judgment, claim, liability, loss, damage, cleanup cost or expense as a result of Landlord's violation of any contractual obligation under this Lease, the Indenture, or any other document executed by Landlord in connection with a Mortgage incurred in connection with Section 11 of this Lease. This indemnification shall survive the Expiration Date of this Lease.

**7.3 No Waste, Nuisance or Damage.** Tenant shall not use the Premises in any manner that will constitute waste of the Premises or nuisance and Tenant shall not do anything on the Premises that will cause damage to the Premises.

**7.4 Tax Covenants.** At all times from and after the Effective Date, Landlord (a) shall maintain its purposes and engage only in activities which are in furtherance of its purposes and which are permitted by the State Nonprofit Corporation Act; (b) will maintain its status as a nonprofit corporation under the State Nonprofit Corporation Act and as an organization described in Section 501(c)(3) of the Code whose income does not inure to the benefit of any private person; (c) shall not encumber, pledge, hypothecate or grant a security interest in all or any part of the Premises (except for the Indenture and the Mortgage which comply with the provisions of Section 11 of this Lease) or except as consented to by Tenant and Bond Insurer in writing; (d) shall not engage in any activities related to the Premises or the Mortgage (except those specifically set forth in Sections 9 and 11 of this Lease) which would cause the transaction contemplated under this Lease to constitute an unrelated trade or business determined by applying Section 513(a) of the Code; and (e) will not take any action or omit to take any action which, if taken or omitted, would adversely affect the tax-exempt status of interest payable on the Bonds. At all times during the term of this Lease, Landlord shall not assign its rights under this Lease (except to Trustee pursuant to the Indenture and the Mortgage) without the prior written consent of Tenant and Bond Insurer and the opinion of nationally recognized bond counsel to the effect that such assignment will not adversely affect the tax-exempt status of interest payable on the Bonds. At all times from and after the Effective Date of this Lease, Tenant covenants that it will not take any action or omit to take any action which, if taken or omitted, would adversely affect the tax-exempt status of interest payable on the Bonds.

## 8. Liens.

**8.1 Covenant Against Liens.** Except for the Indenture and the Mortgage incurred by Landlord in compliance with the provisions of Sections 9 and 11 of this Lease to secure the Bonds, Landlord covenants and agrees that it shall not during the Term of this Lease suffer or permit any Liens to be attached to, upon or against the Premises, or any portion thereof or any Rent payable under this Lease for any reason, including without limitation, Liens arising out of the possession, use, occupancy, acquisition, construction, repair, or rebuilding of the Premises or by reason of the furnishing of labor, services, materials, or equipment to the Premises or to Landlord. Tenant acknowledges that Landlord shall cause Developer to keep the Premises free and clear of all construction liens resulting from the initial construction of the Project (including the right to contest same by appropriate proceedings conducted in good faith with due diligence) under the terms of the Development Agreement prior to the Commencement Date of this Lease. If Developer shall fail to do so, Landlord shall protect, defend, indemnify and hold Tenant harmless against any such liens. Landlord agrees to indemnify, protect, defend and hold Tenant harmless from and against all liabilities, losses, damages, expenses and costs (including reasonable attorneys' fees and costs) incurred in connection with any such Lien. Landlord's obligations pursuant to this Section 8.1 shall survive the Expiration Date of this Lease. Tenant covenants and agrees that, from and after the Commencement Date, it shall not during the Term of this Lease suffer or permit any Liens to be attached to, upon or against the Premises, or any portion thereof or its leasehold interest in the Premises for any reason, including without limitation, Liens arising out of the possession, use, occupancy, acquisition, maintenance, operation, repair, or rebuilding of the Premises or by reason of the furnishing of labor, services, materials, or equipment to the Premises or to Tenant.

**8.2 Covenant to Remove Liens.** Landlord will promptly, and in all events within thirty (30) days following the attachment of same, remove and discharge any and all Liens which attach to, upon or against the Premises or any portion thereof, or any leasehold interest of Tenant created under this Lease (other than liens or encumbrances arising through the actions of Tenant). Landlord reserves the right to contest the validity or amount of any such Lien in good faith provided that, within thirty (30) days after the filing of such Lien, Landlord discharges said Lien of record or records a bond which complies with the requirements of RCW 60.04.161 eliminating said Lien as an encumbrance against the Premises. In the event Landlord shall fail to so remove any such Lien, Tenant may take such action as Tenant shall reasonably determine to remove such Lien and all costs and expenses incurred by Tenant including, without limitation, amounts paid in good faith settlement of such Lien and attorneys' fees and costs shall be paid by Landlord to Tenant together with interest thereon at the rate of twelve percent (12%) interest per annum from the date advanced until paid. Landlord's obligations pursuant to this Section 8.2 shall survive the Expiration Date of this Lease and, unless properly incurred under other provisions of this Lease, the costs of such obligations shall not be included as Operating Costs hereunder.

**8.3 Tenant's Disclaimer.** Notwithstanding the consent or request of Tenant, express or implied, for the performance of any labor or services or for the furnishing of any materials or equipment for any construction, alteration, addition, repair or demolition of or to the Premises (or any part thereof), NOTICE IS HEREBY GIVEN THAT TENANT WILL NOT BE LIABLE FOR ANY LABOR, SERVICES, MATERIALS OR EQUIPMENT FURNISHED OR

TO BE FURNISHED TO LANDLORD, DEVELOPER OR ANYONE HOLDING AN INTEREST IN THE PREMISES (OR ANY PART THEREOF) THROUGH OR UNDER LANDLORD OR DEVELOPER, AND THAT NO CONSTRUCTION OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES, MATERIALS OR EQUIPMENT SHALL ATTACH TO OR AFFECT THE INTEREST OF TENANT IN THE PREMISES. Nothing in this Section 8.3 shall relieve Tenant of its obligations to pay rent hereunder.

**9. Construction of Project.** Tenant would not have entered into this Lease but for the agreement by Landlord to undertake, at Landlord's sole cost and expense, the Project, including without limitation (i) the obtaining of financing for the Project, (ii) the acquisition of a leasehold interest in the Garage Land by way of the Garage Ground Lease, (iii) the acquisition of a leasehold interest in the Building Land by way of the Building Ground Lease, and (iv) the construction and equipping of the Premises for use by Tenant primarily as government offices and a parking garage. It is of critical importance to Tenant that the construction of the Project on the Land be completed in a timely manner, within the Project Budget and thereafter professionally managed by Landlord. Accordingly, Landlord shall diligently cause the Project to be designed, constructed and prosecuted to completion in a good and workmanlike manner and in accordance with the provisions of this Section 9, free and clear of all Liens and otherwise in accordance with the requirements of this Lease. In order to assure timely communications between Landlord and Tenant during the construction process, any notice to Tenant requiring or permitting a response by Tenant shall specify the outside date by which Tenant's response must be received to be effective.

**9.1 Development Agreement.** To meet the requirements of this Lease for completion of the Project, Landlord shall, simultaneously with the execution of this Lease by the parties, enter into the Development Agreement with Developer. As part of the Development Agreement, Landlord shall cause Developer to procure and maintain, at a minimum, for the duration of the Development Agreement, insurance as more particularly described in the attached **EXHIBIT K**, against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of work pursuant to the Development Agreement by Developer, its agents, representatives, employees and/or subcontractors. The cost of such insurance shall be paid by Developer or its subcontractors.

**9.2 Schedule for Design and Construction.** Landlord and Tenant acknowledge and agree that the dates set forth in the initial Project Schedule attached hereto as **EXHIBIT C** and by this reference incorporated herein, and as revised from time to time in accordance with the terms of the Development Agreement, shall serve as target dates for achieving the matters set forth therein. In order to ensure to the greatest extent practicable that the Project is designed, permitted and completed on or before the dates set forth in the Project Schedule, Landlord and Tenant shall each proceed with all necessary due diligence and in good faith to complete such matters as require action or approval on the part of Tenant and Landlord. Landlord shall, following consultation with Tenant, promptly and diligently respond to all questions and concerns raised by Developer or by the Architect, Interior Architect, Contractors, engineers or other consultants.

**(a) Notices from Developer to Landlord.** To ensure that Tenant is fully apprised of decisions required of Landlord pursuant to the Development Agreement,

Landlord shall require Developer to simultaneously provide to Tenant and Bond Insurer a copy of all notices, plans and specifications, change orders, Project Applications for Payment, progress reports, invoices, cash flow reports, documents or other agreements required to be delivered by Developer to Landlord under the Development Agreement and Landlord shall also simultaneously provide to Tenant and Bond Insurer a copy of all notices, plans and specifications, change orders, invoices, cash flow reports, documents or other agreements required to be delivered by Landlord to Developer under the Development Agreement. In addition, Tenant and Bond Insurer shall have the right, but not the obligation, to attend all meetings, including without limitation, design meetings with Developer, Architect, Interior Architect and all other design professionals as appropriate in the course of development of all Construction Documents.

**(b) Notices by Tenant to Landlord and Developer.** To ensure that Developer is fully apprised of Tenant's position on Project decisions to be made by Landlord, Tenant shall have the right to simultaneously provide to Developer a copy of any notice Tenant issues to Landlord hereunder. Such notice shall be sent to Developer at the following address by messenger or fax:

Wright Runstad Associates Limited Partnership  
Attn: Cindy Edens and H. Jon Runstad  
1201 Third Avenue, Suite 2700  
Seattle, WA 98101  
Fax: 206-223-8791

**(c) Tenant's Construction Representative.** Landlord shall, and shall direct Developer to, direct all notices and submittals required to be sent to Tenant hereunder to the attention of Tenant's Construction Representative.

### **9.3 Plans and Specifications.**

**(a) Preliminary Plans and Outline Specifications.** As of the date of this Lease, Tenant has reviewed and accepted the Project Requirements for the Project to be constructed on the Garage Land and Building Land, including the Preliminary Plans and Outline Specifications, a list of which is attached to this Lease as **EXHIBIT B**. In addition, Tenant has reviewed and accepted the Project Budget which sets forth a detailed itemization by line item and category for all Project Costs, including the Tenant Contingency, the Project Contingency, the Tenant Improvement Allowance, and Developer's fees as set forth therein.

**(b) Construction Drawings and Detailed Specifications.** Landlord will cause the preparation by Architect of Construction Drawings and Detailed Specifications for the Base Shell and Core Garage and Base Shell and Core Building and shall cause the preparation by Interior Architect of plans and specifications for Tenant Improvements, in each case for review and acceptance by Tenant. Landlord shall, following consultation with Tenant, cooperate in good faith with Developer to cause a completed design which meets all Requirements of Law and is consistent with all Project Requirements and the building quality reflected therein. Accordingly, as provided above, Developer will provide Tenant a copy of all submittals requiring Landlord's review and approval pursuant to the Development Agreement, as

and when such submittals are provided to Landlord. Tenant shall only have the right to disapprove interim and final sets of such Construction Drawings and Detailed Specifications which (i) do not meet the Project Requirements, or (ii) do not comply with Requirements of Law, or (iii) do not comply with previous iterations of the Construction Drawings and Detailed Specifications in all material respects, or (iv) propose changes in work or materials that would result in a material change in appearance or diminution in quality of the Project. Tenant shall have the right to give notice to Landlord disapproving any such iterations of the Construction Drawings and Detailed Specifications and Landlord shall notify Developer in the manner and within the time period set forth in the Development Agreement. If Tenant fails to issue such notice so as to allow Landlord to make timely objection or comment, such submittals shall be deemed approved by Tenant. The final Construction Drawings and Detailed Specifications setting forth in detail the requirements for the construction of the Project which have been approved by Landlord, following consultation and concurrence by Tenant, are called the Construction Documents.

(c) **Factory Mutual Engineering Plan Review.** Landlord shall cause Developer to submit to Factory Mutual Engineering Association (“Factory Mutual”), for its review, plans of all elements of the Project’s design and construction, when and as specified in the Development Agreement.

(d) **Changes to Construction Documents.** Landlord has directed that Developer provide Tenant a copy of all proposed changes in the Construction Documents requiring Landlord’s review and/or approval pursuant to the Development Agreement, as and when such proposed changes are provided to Landlord. Tenant shall have the right to give notice to Landlord disapproving any such proposed change in the Construction Documents within the time period set forth in the notice of any such proposed change. If Tenant fails to issue such notice so as to allow Landlord to make timely objection or comment, any such change shall be deemed approved by Tenant. If Tenant timely disapproves any such proposed change, Tenant shall notify Landlord in writing specifying the reason for its disapproval and Landlord shall so notify Developer. Tenant shall only have the right to disapprove changes which (i) are not a consistent development of the Project Requirements in all material respects, (ii) do not meet Project Requirements, (iii) do not comply with Requirements of Law, (iv) would violate the terms of any Permits, (v) would cause the Project Schedule to be adversely impacted as a result of such proposed changes, or (vi) involve proposed changes in work or materials which would result in a material change in appearance or diminution in quality of the Project. Disputes regarding a proposed change in the Construction Documents shall be subject to the dispute resolution process set forth in Section 9.6 of this Lease.

#### 9.4 Tenant’s Contingency; Public Art.

(a) **Tenant’s Contingency.** The Project Budget includes the Tenant’s Contingency. During the course of the Project, Tenant may request changes in the Project but, if Tenant requires any material improvement or material deviation in the Construction Documents or the Detailed Specifications from the design or level of quality reflected in the Preliminary Plans and Outline Specifications, any resulting increase in design or construction Project Costs will be charged against the Tenant’s Contingency up to its full amount. No further design changes shall be permitted unless Landlord and Tenant agree to an adjustment in Rent to

compensate for any resulting increase in Project Costs. To the extent that the Construction Drawings and Detailed Specifications are consistent developments of the Preliminary Plans and Outline Specifications, the Fixed Price shall not be adjusted for any change in the Project Costs required to construct the Project in accordance with such Construction Documents. Any portion of the Tenant's Contingency unexpended upon Final Acceptance of the Project shall be applied as provided in the Indenture.

(b) **Public Art.** The Project Budget includes \$ \_\_\_\_\_ to provide public art consistent with the spirit and intent of King County's Public Art Program. Landlord shall coordinate with Tenant during the review and approval process for and selection of public art for the Project, which approval shall not be unreasonably withheld; provided, however, that Landlord may condition or withhold approval for the installation of any public art in the Project if it would have a material and adverse effect on the construction of the Project or on the Project Schedule. The cost of any such public art shall not be a Project Cost and shall not be included in the Fixed Price.

**9.5 Tenant Improvement Allowance.** The Fixed Price includes the Tenant Improvement Allowance of \$ \_\_\_\_\_ for design and construction of Tenant Improvements. **EXHIBIT H** attached hereto and incorporated herein by this reference sets forth the dates for delivery of the space plans by which Landlord (i) must deliver the plans to Developer if Landlord wishes to have the Tenant Improvements for the Garage and Building bid as a part of the bidding for the Base Shell and Core Garage and Base Shell and Core Building, respectively; or (ii) must deliver the plans to avoid potentially jeopardizing the Project Schedule. If Landlord fails to meet the latter of these dates, Developer shall not be held responsible for resulting delays in achieving Substantial Completion.

(a) **Bidding Deadline for Tenant Improvements.** As part of the design process for the Project, final plans for the Tenant Improvements for the Garage must be completed within the applicable period set forth in Section 1 of **EXHIBIT H** if such Tenant Improvements are to be bid as a part of the bidding for the Base Shell and Core Garage. Final plans for the Tenant Improvements for the Building must be completed within the applicable period set forth in Section 1 of **EXHIBIT H** if such Tenant Improvements are to be bid as part of the bidding for the Base Shell and Core Building. (If the Tenant Improvements are not bid with the Base Shell and Core Garage and Base Shell and Core Building, as applicable, construction costs may be higher.)

(b) **Substantial Completion Delay.** If final plans for the Tenant Improvements are not completed within the applicable period set forth in Section 2 of **EXHIBIT H** or if final plans for the Tenant Improvements for the Building are not completed within the applicable period set forth in Section 2 of **EXHIBIT H**, and as a result thereof, Developer is unable to cause Substantial Completion of the Project on or before the Developer Obligation Date, as extended pursuant to the Development Agreement, the Development Agreement provides that Developer shall not be held responsible for resulting delays in achieving Substantial Completion. Any delay resulting from Tenant-initiated change in the Project pursuant to Section 9.3(c) above, or any delay resulting from Landlord's failure to meet the latter of these dates caused by Tenant's failure to timely provide space plans to Landlord, in order that Landlord can deliver the space plans to Developer in accordance with the Development Agreement, shall be deemed a Owner-caused delay for purposes of determining the Developer Obligation Date.

(c) **Tenant Obligation for Delay Costs.** If the Developer Obligation Date is extended as a result of Tenant-caused delay, Landlord will be damaged in an amount equal to Monthly Rent which would have been paid by Tenant under this Lease from and after the Commencement Date but for such Tenant-caused delay but only after all amounts in the Capitalized Interest Account have been expended. Tenant shall pay Landlord on or before the first day of each month until the Commencement Date under this Lease an amount equal to all such Monthly Rent which would have been payable by Tenant to Landlord under this Lease but for such Tenant-caused delay as damages for such default. Accordingly, Tenant shall act promptly and diligently in responding to all submittals related to completion of final plans for the Tenant Improvements.

(d) **Costs in Excess of Tenant Improvement Allowance.** If the total cost of designing and constructing the Tenant Improvements is less than the Tenant Improvement Allowance, all excess funds in the Tenant Improvement Allowance shall be subject to Section 9.11 below. If the total cost of designing and constructing the Tenant Improvements desired by Tenant is greater than the Tenant Improvement Allowance, Landlord shall have no obligation to cause such Tenant Improvements to be designed and constructed unless Tenant provides any necessary funds in excess of the Tenant Improvement Allowance.

**9.6 Dispute Resolution Process.** Tenant and Landlord agree to follow the independent resolution process set forth in this Section 9.6 to resolve disputes regarding preparation of the Construction Drawings and Detailed Specifications and changes to Construction Documents in an economic and time efficient manner so that such documents conform to the requirements of this Lease, the Project Schedule is not adversely impacted, and the Project as constructed will satisfy the Project Requirements. In the event that a dispute arises between Tenant and Landlord during the design or construction of the Project regarding the adequacy of any Drawings or Specifications or the responsibility for any costs associated with any design development, addition or change (e.g., whether any design development is consistent with and reasonably inferable from the Project Requirements), the parties shall attempt to resolve such dispute as expeditiously as possible and shall cooperate so that the progress of the design and construction of the Project is not delayed. If, however, the parties are unable to resolve the dispute within three (3) business days, either party may, by delivering written notice to the other and the Bond Insurer, refer the matter to a dispute resolution mediator as set forth on the attached **EXHIBIT G**.

**9.7 Permits; Costs; Compliance with Legal Requirements.** Landlord shall cause Developer to secure all Permits, licenses, permissions, consents and approvals required to be obtained from governmental agencies or third parties in connection with construction of the Project pursuant to Requirements of Law. In addition, if final plans for the Tenant Improvements are not completed within the time periods set forth in Section 1 of **EXHIBIT H** and as a result of such delay, Developer is required to apply for an additional building permit to construct the Tenant Improvements, the cost of such permit shall be paid from the Tenant Improvement Allowance. Tenant shall join in the application for such permits or authorizations whenever such joinder is required; provided, however, Tenant shall incur no expense or liability in connection therewith. Landlord shall cause all work on the Premises during the Term to be performed in accordance with the Development Agreement and all Requirements of Law and all

directions and regulations of all governmental agencies and the representatives of such agencies having jurisdiction over the Project and/or the Premises.

**9.8 Construction Contracts.** Landlord intends to contract for the construction of the Project directly with the General Contractor and to cause Developer to serve as construction manager in connection therewith pursuant to the provisions of the Development Agreement. Prior to its execution, Landlord shall provide Tenant with a copy of the General Construction Contract with the General Contractor for Tenant's information. In addition, Tenant shall have the right to view, for its own information, all Construction Contracts and the bids submitted by potential Contractors and subcontractors.

**(a) General Contractor's Insurance.** By the date of the execution of the General Construction Contract between Landlord and General Contractor, Landlord shall cause the General Contractor to procure and maintain, at a minimum, for the duration of that General Construction Contract the following insurance as more particularly described in the attached EXHIBIT L against claims for injuries to persons or damages to property which may arise from, or in connection with the performance of work thereunder by the General Contractor, its agents, representatives, employees and/or subcontractors. The cost of such insurance shall be paid by the General Contractor or its subcontractor.

**(b) No Assumption of Risk.** By requiring such minimum insurance, Landlord shall not be deemed to, or construed to, have assessed the risks that may be applicable to the General Contractor in the General Construction Contract. The General Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits or broader coverage.

**9.9 Construction of Project.** Landlord shall use its reasonable best efforts to commence initial construction of the Project following receipt of the clearing and grading permits. Thereafter, following receipt of the building permits for the Project, Landlord shall cause construction of the Project to be diligently and continuously prosecuted. All work shall be performed in a good and workmanlike manner, shall be free of defects in the work and materials and shall be constructed and in substantial accordance with the Contract Documents, the requirements of this Lease and Requirements of Law. Landlord shall use its reasonable best efforts to cause Substantial Completion of the Project on or before twenty-five (25) months following Bond Closing.

**9.10 Payment of Project Costs and Other Costs Associated with the Project.** Throughout the course of construction of the Project, Developer shall submit to Landlord on a monthly basis Project Applications for Payment, as defined in, and in the manner, and with all supporting documentation described in, the Development Agreement. Pursuant to Section 9.2(a) above, Landlord shall require Developer to simultaneously provide Tenant and Bond Insurer with a copy of all such Project Applications for Payment and supporting documentation. Tenant shall have the right, but not the obligation, to give notice to Landlord objecting to any aspect of such submittals and Landlord shall notify Developer in the manner and within the time period set forth in the Development Agreement. If Tenant fails to give such notice so as to allow Landlord to make timely objection, Landlord shall be free to approve or to take such other action as it deems appropriate with respect to any such submittal. Any dispute



with respect to Project Applications for Payment shall be subject to dispute resolution pursuant to Section 9.6 above.

**9.11 Savings.** Upon Final Acceptance of the Project, Landlord shall provide Tenant and Trustee notice of the unexpended amount of the Tenant Improvement Allowance, the Tenant's Contingency, and the Project Contingency. One hundred percent of the unexpended portion of the Tenant Improvement Allowance and the Tenant's Contingency, if any, and the unexpended portion of the Project Contingency after payment to Developer of the incentive fee described in the next sentence, if any, shall be applied as provided in the Indenture. (One-third of the unexpended portion of the Project Contingency, but not exceeding \$250,000 shall be paid to Developer as an incentive fee.)

**9.12 Substantial Completion of Project.** Substantial Completion of the Project shall have occurred when all of the events described in Section 1.62 of this Lease have occurred.

**9.13 Final Acceptance.** Final Acceptance of the Project shall have occurred when all of the events set forth in Section 1.28 of this Lease have occurred.

**9.14 As-Built Plans and Specifications; Manuals; Warranties; Permits and Licenses; and Survey.** On or before Final Acceptance of the Project, Landlord shall provide Tenant with a complete and detailed set of "as-built" plans and specifications for the Project (Tenant Improvements to be provided on CAD), together with copies of all other materials received from Developer pursuant to the Development Agreement including manuals, warranties, permits and licenses and an as-built survey.

**9.15 Enforcement of Warranties.** Landlord shall take all actions reasonably requested by Tenant to enforce or otherwise obtain the benefit of any warranty received from Developer, the General Contractor or any other Contractors or any subcontractor thereof, or any supplier, materialman or manufacturer relating to the Project; provided, however, that Landlord shall incur no additional expense or liability in that connection. If Landlord fails to take actions reasonably requested by Tenant to enforce or otherwise obtain the benefit of any such warranty, Landlord shall, upon written notice from Tenant, assign any such warranty to Tenant for such purposes. After expiration of any applicable warranty period, Tenant acknowledges that it shall be fully responsible for the cost of the maintenance and repair of the Premises pursuant to the terms of this Lease.

**9.16 Inspection by Tenant.** Tenant and Bond Insurer shall have the right to inspect the on-going construction of the Project and the Contract Documents upon reasonable prior notice to Landlord. In addition, Tenant shall have the right to have an independent consulting architect, engineer or other appropriate consultant inspect the Project and the Contract Documents. Landlord shall cause Developer to provide Tenant's Construction Representative and Bond Insurer with all updates of the status of the construction of the Project issued to Landlord in accordance with the Development Agreement.

**9.17 Unavoidable Delays.** Notwithstanding the provisions of Sections 9.9, 9.12 and 9.13 above, the dates for obtaining permits, commencing construction and achieving

Substantial Completion of the Project and Final Acceptance of the Project shall be extended for Unavoidable Delays. In the event that Substantial Completion of the Project does not occur on or prior to the Developer Obligation Date, Developer shall pay to Trustee on the first day of each month an amount equal to the Monthly Rent prorated retroactively for a partial month until the earlier of Substantial Completion or termination of this Lease pursuant to Section 9.18 of this Lease. If Developer has made any payments to Trustee pursuant to the provisions of the Development Agreement, upon Final Acceptance, if there are funds remaining in the Project Fund (as defined in the Indenture) prior to final disbursement of said Project Fund (i.e., sharing of contingency funds), Developer and Landlord, with concurrence by the Tenant, shall determine and direct Trustee to pay to Developer any additional interest earnings that accrued on the undisbursed funds in the Bond Proceeds Subaccount within the Project Costs Account of the Project Fund (all as defined in the Indenture) as a direct result of such delay in excess of interest that would have accrued absent such delay.

**9.18 Termination of Lease.** Upon sixty (60) days' prior written notice to Landlord and in the event that Substantial Completion of the Project has not occurred for any reason whatsoever including, but not limited to Unavoidable Delays described in Section 9.17 above by December 31, 2009, Landlord shall be in default under this Lease and Tenant shall have the right to terminate this Lease, without liability to Landlord.

**9.19 No Amendment of Documents.** In the event Landlord desires to amend the Architect's Agreement, the General Construction Contract, any Contract Document, the Development Agreement, the Indenture, the Mortgage, or any other document, contract or agreement entered into in connection with the Project or the Bonds, Landlord shall submit a copy of such proposed amendment to Tenant. In the event Tenant notifies Landlord within five (5) business days following receipt of such proposed amendment of its objection to such proposed amendment, Landlord shall not enter into the proposed amendment unless Landlord first (i) responds to the concerns expressed by Tenant and (ii) any such amendment does not materially and adversely affect the Project.

## **10. Maintenance and Modification.**

**10.1 Maintenance and Repair.** Except as otherwise expressly provided herein and except for warranty claims for which Developer is responsible as provided in the Development Agreement and except for damage caused by the negligent acts or omissions of Landlord, from and after the date of Substantial Completion of the Garage with respect to the Garage portion of the Premises and from and after the Commencement Date of this Lease with respect to the entire Premises, Tenant shall, at Tenant's sole cost and expense, maintain the Premises and appurtenances and every part thereof in good order, condition and repair and will take all action and will perform all interior and exterior, structural and non-structural, foreseen and unforeseen, ordinary and extraordinary, maintenance and repairs required to keep all parts of the Premises in good repair and condition, subject only to ordinary wear and tear. Except as otherwise expressly provided herein and except for warranty claims which Landlord shall cause Developer to cure or remedy in accordance with the provisions of the Development Agreement, Landlord shall not be required to pay for the cost required to maintain all or any part of the Premises in good order, condition and repair.

## 10.2 Management of Premises; Accounting.

(a) **Property Management.** Tenant may at any time following Substantial Completion of the Garage or Project, as applicable, request that Landlord enter into a property management agreement in form and substance satisfactory to Landlord and Tenant under which the appointed property manager may assume some or all of the obligations of a property manager for all or a portion of the Premises. Landlord may also enter into a property management agreement in form and substance satisfactory to Landlord in accordance with the provisions of Section 10.3 of this Lease. Any such property management agreement shall comply with Revenue Procedure 97-13 or any successor revenue procedure issued by the Internal Revenue Service governing management, operation or other service contracts in connection with the issuance of tax-exempt obligations. The appointed property manager shall at all times operate the Premises in compliance with all Requirements of Law and in compliance with the terms and provisions of this Lease and the property management agreement. Such private property manager shall have experience managing buildings of comparable size and quality and shall be paid a management fee not in excess of the management fee customarily charged by other property managers who manage similar buildings. If a property management agreement is terminated in accordance with the provisions therein due to a material and uncured default by the property manager, Landlord shall have the ability to replace the property manager with a private professional property management company selected by Landlord and not unreasonably objected to by Tenant.

(b) **Financial Statements.** As soon as reasonably possible and in any event within ninety (90) days after the close of each fiscal year of Landlord, Landlord shall deliver to Tenant, Trustee, and Bond Insurer the (i) consolidated balance sheet of Landlord and the Premises as at the end of such fiscal year setting forth in comparable form the corresponding figures as at the end of the preceding fiscal year, certified as to accuracy by an officer of Landlord; (ii) statements of income, retained earnings and changes in financial position for such fiscal year of Landlord and the Premises setting forth in comparable form the corresponding figures for the previous fiscal year prepared in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year or containing disclosure of the effect on financial position or results of operations of any change in the application of accounting principles during the year certified as to accuracy by an officer of Landlord; (iii) operating statement for the Premises for the preceding Calendar Year certified as to accuracy by an officer of Landlord; and (iv) certificate executed by an officer of Landlord certifying compliance by Landlord with the requirements of this Lease, the Mortgage, the Indenture and the Bonds. Such year-end balance sheet and income statements of the Premises shall be accompanied by an unqualified report and audit opinion of independent public accountants of recognized standing selected by Landlord and not objected to by Tenant, which report and opinion shall be in accordance with generally accepted auditing standards relating to reporting, or, if qualified, the opinion shall not be qualified due to any departure from any generally accepted accounting principles, and shall be accompanied by a statement of such accountants that in making the audit necessary for the certification of such financial statements and any such report, such accountants have obtained no knowledge of any default under this Lease, the Mortgage, the Indenture, the Bonds or any other evidence of indebtedness or of any event which, with notice or lapse of time, or both, would constitute an event of default under this Lease, the Mortgage, the Indenture, the Bonds or any other evidence of indebtedness or, if in the opinion of

such accountants any such event of default or other event shall exist, shall include a statement as to the nature and status thereof.

(c) **Asset Management Fee.** As compensation for its services in overseeing the management of the Premises and the preparation of financial statements, Tenant shall pay Landlord an asset management fee equal to one percent (1%) of the Monthly Rent payable under this Lease. Such asset management fee shall be paid monthly in advance at the same time and in the same manner that Monthly Rent is paid.

**10.3 Landlord's Remedies.** Tenant shall diligently pursue all necessary or appropriate maintenance and repairs in accordance with its obligations under Section 10.1 hereof, but failure to do so shall not constitute an Event of Default. However, if, based on inspections of the Premises permitted under Section 25 hereof, Landlord becomes aware of needed maintenance or repairs, Landlord shall provide Tenant written notice of any maintenance or repair required to the Premises. Tenant shall have sixty (60) days after receipt of notice from Landlord detailing the need for maintenance or repair, to commence to perform such maintenance and repair, except that Tenant shall perform its obligations as soon as reasonably possible if the nature of the problem presents a hazard or emergency. If Tenant does not perform such maintenance and repair within the time limitations set forth in this Section 10.3, provided written notice has been given to Tenant as provided in this Section 10.3, Landlord may, with the prior written consent of Tenant, perform such maintenance and repair and shall, in that event, have the right to be reimbursed by Tenant for the sum it actually expends in the performance of such work. In connection with Landlord's exercise of default remedies under Section 22 hereof, Landlord shall have the right, but not the obligation, upon thirty (30) days' written notice to Tenant, to enter into a property management agreement in form and substance satisfactory to Landlord under which the appointed property manager shall assume all obligations of a property manager for the Premises. Any such property management agreement shall comply with the requirements of Section 10.2(a) hereof.

**10.4 Modifications, Alterations and Additions.** From and after the Commencement Date, Tenant may, at Tenant's sole cost and expense, make modifications, alterations and additions to the Premises provided that such modifications, alterations and additions do not decrease the value of the Premises, and such modifications, alterations and additions shall be expeditiously completed in a good and workmanlike manner and in compliance with all applicable Laws and the requirements of all insurance policies required to be maintained by Tenant, without further consent from Landlord. Landlord shall, upon reasonable notice, have access to all plans and specifications relating to alterations and modifications made by Tenant to the Premises.

**11. Landlord Financing of Project.** Landlord shall not have the right to mortgage, pledge, encumber or assign the Premises in whole or in part except in connection with its financing of the Project through Bonds issued by Landlord pursuant to the Indenture and secured by the Mortgage in compliance with the requirements of Revenue Ruling 63-20 and Revenue Procedure 82-26 issued by the Internal Revenue Service. Copies of the Indenture and the Mortgage securing the Bonds shall be provided to and shall be approved by Tenant, which approval shall not be unreasonably withheld provided Tenant receives an opinion from nationally recognized bond counsel acceptable to Tenant that the interest on the Bonds secured by such

Mortgage is exempt from taxation under the provisions of the Code and the financing proposed by the Indenture and the Mortgage is otherwise in full compliance with all requirements of the Code in connection with the issuance of tax-exempt obligations which satisfy the requirements of Revenue Ruling 63-20, Revenue Procedure 82-26 and other regulations, interpretations and letter rulings issued by the Internal Revenue Service with respect to such financings. The Mortgage shall expressly provide that so long as Tenant is not in default under any of the terms, covenants or conditions of this Lease, the beneficiary under the Mortgage shall not disturb Tenant's possessory rights in the Premises in the event such beneficiary should foreclose the Mortgage.

**12. Construction Liens.** From and after the Commencement Date of this Lease, Tenant shall pay all costs for modifications, alterations and additions done by it or caused to be done by it on the Premises as permitted by this Lease (other than the construction of the Project) and Tenant shall keep the Premises free and clear of all construction liens resulting from modifications, alterations and additions done by or for Tenant; provided, however, Tenant shall have the right to contest the correctness or validity of any such Lien by appropriate proceedings conducted in good faith with due diligence. Within thirty (30) days following written notice from Landlord, Tenant shall discharge said Lien of record or record a bond which complies with the requirements of RCW 60.04.161 eliminating said Lien as an encumbrance against the Premises if in the reasonable exercise of Landlord's judgment the protection of the Premises or Landlord's interest therein shall require such payment. In the event Tenant shall fail to so remove any such Lien, Landlord may take such action as Landlord shall reasonably determine to remove such Lien and all costs and expenses incurred by Landlord including, without limitation, amounts paid in good faith settlement of such Lien and attorneys' fees and costs shall be paid by Tenant to Landlord. Tenant's obligations pursuant to this Section 12 shall survive the Expiration Date of this Lease.

Tenant acknowledges that Landlord shall cause Developer to keep the Premises free and clear of all construction liens resulting from the initial construction of the Project (including the right to contest same by appropriate proceedings conducted in good faith with due diligence) under the terms of the Development Agreement prior to the Commencement Date of this Lease. If Developer shall fail to do so, Landlord shall protect, defend, indemnify and hold Tenant harmless against any such liens.

**13. Indemnity and Hold Harmless.** Landlord and Tenant mutually agree that in any and all causes of action and/or claims or third party claims arising out of or in connection with the terms, activities, use and/or operations of this Lease, including the Premises, each party shall be responsible to the other only to the extent of each other's comparative fault in causing the alleged damages or injuries.

As to any and all causes of action and/or claims or third-party claims arising from the sole fault of a party to this Lease, the indemnifying party shall have the duty to defend, save and hold the other party harmless and upon failure to do so, the indemnifying party shall pay reasonable attorneys' fees, costs, and expenses incurred by the other party to this Lease in defense of said claims and/or actions.

Nothing contained within this Section 13 shall affect and/or alter the application of any other provision contained within this Lease.

**14. Minimum Scope of Insurance Coverage for Landlord.**

**14.1 Landlord's Coverages.** During the Term of this Lease, Landlord shall at a minimum maintain: Commercial General Liability insurance (Insurance Services Office form number (CG00 001), covering Commercial General Liability with a limit of not less than \$1,000,000 combined single limit per occurrence; \$2,000,000 aggregate. In addition, Landlord shall maintain workers' compensation coverage as required by the Industrial Insurance Act of the State of Washington, statutory limits.

**14.2 Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the Tenant. The deductible and/or self-insured retention of the policies shall not limit or apply to the Tenant and shall be the sole responsibility of Landlord.

**14.3 Other Insurance Provisions.** The insurance policies required by this Lease are also to contain or be endorsed to contain the following provisions where applicable:

**(a) Liability Policies:**

(1) The Bond Insurer, the Trustee and the Tenant, their officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of Landlord in connection with this Lease.

(2) Landlord's insurance coverage shall be primary insurance as respects the Bond Insurer, Trustee and Tenant, their officers, officials, employees and agents. Any insurance and/or self insurance maintained by Bond Insurer, Trustee and Tenant, their officers, officials, employees and agents shall not contribute with the Landlord's insurance or benefit Landlord in any way.

(3) Landlord's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

**(b) All Policies.** Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except by the reduction of the applicable aggregate limits by claims paid, until after forty-five (45) days' prior written notice has been given to Landlord, Tenant, Trustee and Bond Insurer.

**(c) Acceptability of Insurers.** Unless otherwise approved by Tenant and Bond Insurer:

(1) Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's with a rating in one of the two highest categories maintained by Standard & Poor's Rating Group and Moody's Investors Service.

(2) If at any time any of the foregoing policies shall fail to meet the above minimum standards Landlord shall, upon notice to that effect from Tenant promptly obtain a new policy and shall submit the same to Tenant and Bond Insurer with certificates and endorsements, for approvals.

## **15. Minimum Scope of Insurance Coverage for Tenant.**

**15.1 General Liability.** During the Term of this Lease, Tenant shall have the right to self-insure under Section 15.2 or, at its sole cost and expense, shall obtain and keep in force throughout the Term of this Lease a Commercial General Liability insurance policy on an-occurrence basis insuring Tenant against claims for injuries to persons and property damage liability. "Commercial General Liability" insurance shall mean Insurance Services Office form number (CG00 001) with a limit of not less than \$1,000,000 combined single limit per occurrence, \$2,000,000 aggregate. Tenant agrees to add Landlord, Trustee and the Bond Insurer as additional insureds to any Commercial General Liability insurance policy.

**15.2 Self-Insurance by Tenant.** Notwithstanding anything herein to the contrary, Tenant may self-insure for general liability coverage, provided that Tenant maintains at all times a program of self-insurance and provides Landlord, Trustee and Bond Insurer annually with a certified actuarial statement from an independent insurance consultant or actuary that such program is in full force and effect and is actuarially sound and consistent with industry standards and prudent risk management standards. Annual evidence of Tenant's program of self-insurance is and shall continue to be included in the Tenant's financial report and shall be provided to Landlord, Trustee and Bond Insurer. Tenant agrees to provide Landlord and Bond Insurer with at least thirty (30) days' prior written notice of any change in Tenant's self-insured status and will provide Landlord and Bond Insurer with a certificate of self-insurance as adequate proof of insurance. In the event Tenant fails to satisfy the condition set forth above, Tenant shall immediately procure the Commercial General Liability insurance coverage specified in Section 15.1. If Tenant elects to self-insure as set forth in this Section, Tenant acknowledges and agrees that Landlord shall have no liability for such losses or damage which would otherwise have been covered by the general liability insurance which Tenant could have provided in accordance with Section 15.1 of this Lease, nor shall Tenant's failure to obtain commercial general liability insurance have any effect on Tenant's obligations under this Lease.

**15.3 Workers' Compensation.** Landlord acknowledges, agrees and understands that Tenant is self-insured for all of its workers' compensation liability exposure. Tenant agrees, at its own expense, to maintain through its self-insurance program coverage for its workers' compensation liability exposure for the duration of the Term of this Lease. Tenant agrees to provide Landlord and Bond Insurer with at least thirty (30) days' prior written notice of any change in the Tenant's self-insured status and will provide Landlord and Bond Insurer with a certificate of self-insurance as adequate proof of insurance.

## **16. Property Insurance.**

**16.1 Coverage for Premises.** From and after the Commencement Date of this Lease, Tenant agrees that it shall cause the Premises to be insured at 100% of replacement value for fire and other perils currently covered by a special causes of loss commercial property

insurance form. Such coverage shall include twelve (12) months of rental interruption coverage and shall name Trustee as loss payee as its interests may appear. Tenant further agrees to cause the Premises to be insured against the perils of earthquake and flood, either as part of the aforementioned commercial property policy, or under a separate policy or policies. Such earthquake and flood insurance shall include twelve (12) months of rental interruption coverage and shall name Trustee as loss payee as its interests may appear. Tenant shall cause coverage to be maintained against loss arising from earthquake and flood so long as such coverage is available at a commercially reasonable cost and in coverage amounts which are commercially available, but shall not be in default under this Lease if coverage is no longer written, is unavailable for properties comparable to the Premises or is not available at commercially reasonable premium amounts. Tenant will provide Landlord and Trustee with thirty (30) days' prior written notification of material changes in coverage. Tenant will, upon request, furnish Landlord and Trustee with satisfactory evidence that such coverage is in effect.

**16.2. Coverage for Tenant's Personal Property.** Landlord shall have no obligation to insure any of Tenant's Personal Property.

**17. Waiver of Subrogation.** Landlord and Tenant shall cause their respective property insurance carriers to release and waive all rights of subrogation against the other to the extent a loss is covered by property insurance in force. Landlord and Tenant hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies, including any extended coverage endorsements hereto; provided, that this provision shall be inapplicable if it would have the effect of invalidating any insurance coverage of Landlord or Tenant.

**18. Other Insurance Matters.**

**18.1 Insurance Requirements.**

(a) At all times from and after the Effective Date of this Lease, Landlord and Tenant agree to procure and maintain in full force and effect for the duration of the Term of this Lease insurance, as specified in Sections 14, 15 and 16 against claims for injuries to persons or property damage which may arise from or in connection with this Lease.

(b) Each insurance policy shall be written on an "occurrence" form.

(c) By requiring such minimum insurance as specified herein, neither party shall be deemed to, or construed to, have assessed the risks that may be applicable to the other party to this Lease. Each party shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits or broader coverage.

(d) Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Lease.



(e) Each insurance policy required to be carried by Tenant hereunder shall comply with the provisions of Section 14.3 of this Lease.

(f) Each party shall furnish the other party with certificates of insurance and endorsements as required by this Lease. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for Landlord's insurance are to be on forms approved by Tenant and are to be received and approved by the Tenant and Bond Insurer prior to the Effective Date of this Lease. The certificate and endorsements for Tenant's insurance are to be received and approved by the Bond Insurer prior to the Effective Date or Commencement Date of this Lease as appropriate. Tenant and Bond Insurer each reserves the right to require complete certified copies of all required policies at any time.

**18.2 Insurance Prior to the Commencement Date of This Lease.** Prior to the Commencement Date of this Lease, Landlord and Tenant acknowledge, understand and agree that all liability and property insurance necessary in connection with the Garage Land and the Premises (except for Tenant's commercial general liability insurance described in Section 15.1 of this Lease which can be self-insured by Tenant pursuant to Section 15.2 of this Lease) shall be obtained and thereafter maintained in full force and effect by Landlord or Developer with the cost to be allocated between Landlord and Developer pursuant to the provisions of the Development Agreement. Such insurance shall name Landlord, Tenant, Trustee and Bond Insurer as additional insureds and shall name the Trustee, Bond Insurer and Tenant, as their respective interests may appear, as loss payee, where appropriate, and shall be in form satisfactory to Tenant and Bond Insurer.

**19. Destruction.** In the event that the Premises are damaged or destroyed by fire or other casualty following the Commencement Date, this Lease shall not terminate nor shall there be any abatement of Monthly Rent or Additional Rent otherwise payable by Tenant hereunder; provided, however, that Tenant may elect to defease or prepay Monthly Rent in accordance with Section 4.4 and Section 35 hereof.

**20. Condemnation.**

**20.1 Total Condemnation.** If there is a taking or damaging of all or any portion of the Premises by the exercise of any governmental power, whether by legal proceedings or otherwise, by a governmental agency with jurisdiction over the Premises or a transfer by Landlord either under threat of condemnation or while legal proceedings for condemnation are pending (a "Condemnation") such that there can be no reasonable use of the Premises by Tenant, as reasonably determined by Tenant, this Lease shall terminate on the date the condemnor has the right to possession of the property being condemned. The entire award with respect to a taking of the Premises (including Tenant's leasehold estate under this Lease) shall be paid to Trustee and (i) applied at the Bond Insurer's direction, if there has been no default by the Bond Insurer under the terms of its municipal bond insurance policy that insures payment of principal of and interest on the Bonds, and otherwise (ii) applied at the direction of Landlord in accordance with the Indenture. Any Condemnation proceeds remaining after Bonds have been paid in full shall be paid to Tenant.

**20.2 Partial Condemnation.** If during the Term there is a partial taking of a part of the Premises by Condemnation, and Tenant determines that a reasonable use can be made of the Premises then the condemnation proceeds shall be paid to Trustee who shall deposit said condemnation proceeds into the Capital Repairs Fund established under the Indenture and shall disburse such condemnation proceeds to Landlord from time to time as restoration progresses. Landlord shall thereupon restore the Premises or such portion thereof. In no event shall this Lease terminate as a result of a partial taking nor shall there be any abatement of Monthly Rent or Additional Rent otherwise payable by Tenant hereunder; provided, however, that Tenant may elect to defease or prepay Monthly Rent in accordance with Section 35 hereof.

**21. Assignment of Project; Subletting.** Landlord shall not assign its interest in this Lease or in the Premises (except to Trustee) without the prior written consent of Tenant and the Bond Insurer and a written opinion from nationally recognized bond counsel that any such sale, transfer, conveyance or assignment by Landlord of all or any portion of its interest in this Lease or the Premises will not have an adverse effect on the tax exempt status of interest payable on the Bonds and any attempted assignment in violation of the consent requirements under this Section 21 shall be null and void and shall constitute an event of default under the Indenture. Tenant shall not assign its interest in this Lease or in the Premises without the prior written consent of Landlord and Bond Insurer together with an opinion of nationally recognized bond counsel that any such assignment will not adversely affect the tax exempt status of interest payable on the Bonds. Tenant may sublease the Premises or any portion thereof, to the extent and on the terms and conditions set forth under Section 7 of this Lease and so long as the execution of such sublease would not violate the provisions of Section 7 hereof; provided, however, that under no circumstances shall Tenant be released or relieved from any of its obligations hereunder. Any such assignment or sublease as provided for in this Section shall be in writing and shall require such assignee or subtenant to comply fully with the terms of this Lease, including, without limitation, the provisions of Section 7 regarding use of the Premises. Tenant shall provide Landlord, Trustee and Bond Insurer with written notice of any such assignment or sublease and a copy of any such assignment or sublease documentation.

**22. Default by Tenant.** The occurrence of any of the following shall constitute an Event of Default by Tenant under this Lease:

**22.1 Payment.** Failure (a) to make any Monthly Rent payments due under this Lease if the failure to pay is not cured within seven (7) days after written notice of such failure has been given by Trustee or Landlord to Tenant, or (b) failure to make any other payment required if the failure to pay is not cured within ten (10) days after written notice of such failure has been given by Landlord to Tenant.

**22.2 Other Failure to Perform.** Failure to perform any other provision of this Lease if the failure to perform is not cured within thirty (30) days after written notice of such default has been given by Landlord to Tenant. If the default cannot reasonably be cured within thirty (30) days, then Tenant shall not be in default under this Lease if Tenant commences to cure the default within thirty (30) days and diligently and in good faith continues to cure the default; provided, however, that if such default is of a nature such that it cannot be cured within ninety (90) days Tenant shall obtain the written approval of Landlord and the Trustee to continue its efforts to cure such default following the ninety (90) day cure period.

**22.3 Late Charges; Interest on Past Due Monthly Rent.** Tenant acknowledges that a late payment of Monthly Rent hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which is difficult to ascertain. Therefore, in the event Tenant shall fail to pay any installment of Monthly Rent due hereunder for fifteen (15) days after the date such amount is due, Tenant shall also pay Landlord a late charge equal to two percent (2%) of the amount then owing and past due together with interest on such past due amount at an interest rate of twelve percent (12%) per annum commencing eight (8) days after the date such amount is due until paid. Payment of such late charges and/or default interest shall not excuse or cure any default by Tenant under this Lease.

**22.4 Remedies for Tenant Default.** If Tenant commits a default under Section 22.1(a) above and fails to cure such default within the time period provided therein, then Landlord, by providing Tenant with ten (10) days' advance written notice, may cancel and terminate this Lease, evict the Tenant and re-enter the Premises, but notwithstanding such re-entry by Landlord, Tenant covenants and agrees to make good to Landlord any deficiency arising from a re-entry and reletting of the Premises at a lesser Rent than the Rent agreed to through the Term of this Lease, provided Landlord has taken all reasonable measures to ensure that a maximum rental rate was obtained for reletting. Landlord shall provide notice to Tenant of any amount by which rentals from such reletting are less than the Rent and the due dates of such Rent. The deficiency amount for each such Rent payment shall be paid by Tenant on or before the due date for such Rent payment. In addition to the remedy specified above for Tenant's failure to pay Monthly Rent, if Tenant commits any default and fails to cure such default within the time period provided under this Section 22, Landlord shall have the right to pursue any and all remedies available at law or in equity.

**23. Default by Landlord.** Landlord shall not be in default unless Landlord fails to perform its obligations (i) within five (5) business days after notice by Tenant specifying the obligation which Landlord has failed to perform if such failure occurs prior to the Commencement Date and (ii) within thirty (30) days after notice by Tenant specifying the obligation which Landlord has failed to perform if such failure occurs after the Commencement Date; provided, that if the nature of Landlord's obligation is such that more than five (5) business days or thirty (30) days, as applicable, are required for performance, Landlord shall not be in default if Landlord commences performance within such period following Tenant's notice and thereafter completes performance within a reasonable time. If the nature of the obligation presents a hazard or emergency, Landlord shall commence performance as soon as reasonably possible. In the event that Landlord fails to cure any such default, Tenant shall have the right to pursue any and all remedies available at law or in equity; provided, however, that Tenant shall have no right to offset against Rent payable under this Lease, but Tenant may seek as part of its remedies a judgment against any amounts held as reserves by Landlord under this Lease.

**24. Signs.** Tenant shall have the right to place identification signage, other signage, advertisements, awnings, banners or other exterior decorations on the exterior of the Premises without any further consent or approval from Landlord. Any sign that Tenant has the right to place, construct and maintain shall comply with all Laws, and Tenant shall obtain any approval required by such Laws. Landlord makes no representation with respect to Tenant's ability to obtain such approval.

**25. Landlord's Right to Enter the Premises.** Landlord shall have the right to enter the Premises at reasonable times during Tenant's normal business hours for the below listed purposes; provided, however, Landlord acknowledges and agrees to comply with Tenant's requests regarding security. Landlord shall conduct its activities on the Premises as allowed in this Section in a manner that will cause the least possible inconvenience, annoyance or disturbance to Tenant. Landlord shall not be liable in any manner for any inconvenience, annoyance, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the Premises as provided in this Section, except damage resulting from the negligent acts or omissions of Landlord. Tenant shall not be entitled to an abatement or reduction of Rent if Landlord exercises any right reserved in this Section:

**25.1 Condition.** To determine whether the Premises are in good condition, whether Tenant is complying with its obligations under this Lease and to perform any maintenance, repair or replacement obligations of Landlord pursuant to Section 10 above.

**25.2 Notices.** To serve, post or keep posted any notices required or allowed under the provisions of this Lease.

**26. No Encumbrances by Landlord.** Except to the extent expressly authorized in Sections 11 and 21 of this Lease Landlord shall not at any time during the Term of this Lease sell, transfer, lease (other than to Tenant pursuant to this Lease), convey, encumber (other than to Trustee pursuant to the Mortgage), pledge (other than to Trustee pursuant to the Indenture), hypothecate or otherwise grant a security interest in the Premises or any portion thereof.

**27. Right to Estoppel Certificates.** Each party, within fifteen (15) days after notice from the other party, shall execute and deliver to the other party, in recordable form, a certificate stating that this Lease is unmodified and in full force and effect, or in full force and effect as modified and stating the modifications. Failure to deliver the certificate within such fifteen (15) day period shall be conclusive upon the party failing to deliver the certificate for the benefit of the party requesting the certificate and any successor to the party requesting the certificate, that this Lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate.

**28. Limitation on Landlord's Liability.** Notwithstanding any provision in this Lease to the contrary, Tenant agrees that it shall look solely to the estate and property of Landlord in the Land and buildings constituting the Premises, any insurance proceeds or condemnation proceeds payable to Landlord under this Lease, and any sums paid to Landlord under the Development Agreement for the collection of any judgment requiring the payment of money by Landlord or for the enforcement of any other judgment or remedy against Landlord and no other assets of Landlord shall be subject to levy, execution or other procedure for the satisfaction of Tenant's remedies.

**29. Attorneys' Fees.** In the event either party requires the services of an attorney in connection with enforcing the terms of this Lease, or in the event suit is brought for the recovery of any Rent due under this Lease or for the breach of any covenant or condition of this Lease, or for the restitution of said Premises to Landlord and/or eviction of Tenant during said Term or

after the expiration thereof, the prevailing party will be entitled to a reasonable sum for attorneys' fees, witness fees, and court costs, including costs of appeal.

**30. Surrender.** Landlord shall, on the Expiration Date, surrender and deliver up the Premises, including all improvements then located thereon and the appurtenances thereto, into the possession of Tenant, in good order, condition and repair, free and clear of all lettings and occupancies, and free and clear of all liens and encumbrances other than those existing on the date of this Lease and those, if any, created by Tenant, without any payment or allowance whatsoever by Tenant. Landlord shall execute, acknowledge and deliver to Tenant such instruments of further assurance as in the opinion of Tenant are necessary or desirable to confirm or perfect Tenant's right, title and interest in and to all of the above-described property. The provisions of this Section shall survive the expiration or termination of this Lease.

**31. Broker.** Landlord and Tenant each represent to the other that neither is represented by any broker, agent or finder with respect to this Lease in any manner. Each party agrees to indemnify and hold the other party harmless from and against any and all liability, costs, damages, causes of action or other proceedings instituted by any other broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying party in any manner whatsoever in connection with this Lease.

**32. Miscellaneous Provisions.**

**32.1 Entire Agreement.** This Lease sets forth the entire agreement of the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them. This Lease may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized officer or representative of each party hereto and the consent of Bond Insurer if required pursuant to the provisions of Section 32.13 of this Lease.

**32.2 Governing Law.** This Lease shall be governed by and construed and enforced in accordance with the laws of the State of Washington.

**32.3 Severability.** Should any of the provisions of this Lease be found to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision shall be stricken and the remainder of this Lease shall nonetheless remain in full force and effect unless striking such provision shall materially alter the intention of the parties.

**32.4 Jurisdiction/Venue.** In the event any action is brought to enforce any of the provisions of this Lease, the parties agree to be subject to exclusive in personam jurisdiction in the King County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively in King County, Washington.

**32.5 Waiver.** No waiver of any right under this Lease shall be effective unless contained in writing signed by a duly authorized officer or representative of the party sought to be charged with the waiver and no waiver of any right arising from any breach or failure to perform shall be deemed to be a waiver of any future right or of any other right arising under this Lease.

**32.6 Captions.** Section captions contained in this Lease are included for convenience only and form no part of the agreement between the parties.

**32.7 Notices.** All notices or requests required or permitted under this Lease shall be in writing, shall be personally delivered or sent by certified mail, return receipt requested, postage prepaid, by nationally recognized overnight courier or by facsimile transmission and shall be deemed given when so delivered, received or faxed (provided the fax machine has issued a printed confirmation of receipt). All notices or requests to any party shall be sent to all other parties as follows:

If to Landlord:           Goat Hill Properties  
                                  c/o National Development Council  
                                  1425 Fourth Avenue, Suite 608  
                                  Seattle, WA 98101  
                                  Facsimile:     (206) 448-5246

If to Tenant:             King County  
                                  Property Services Division  
                                  500 King County Administration Building  
                                  500 Fourth Avenue  
                                  Seattle, WA 98104  
                                  Facsimile:     (206) 205-5070

If to Trustee:            [To be provided.]  
                                  Attn: \_\_\_\_\_  
                                  \_\_\_\_\_  
                                  \_\_\_\_\_  
                                  Facsimile:     \_\_\_\_\_

If to Bond Insurer:    [To be provided.]  
                                  Attn: \_\_\_\_\_  
                                  \_\_\_\_\_  
                                  \_\_\_\_\_  
                                  Facsimile:     \_\_\_\_\_

Any party may change the address to which notices shall be sent by notice to the other party in the manner and with the effect set forth in this Section 32.7.

**32.8 Binding Effect.** Subject to the provisions of Sections 11 and 21 hereof, this Lease shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. No permitted assignment of this Lease or Tenant's rights hereunder shall be effective against Landlord unless and until an executed counterpart of the instrument of assignment shall have been delivered to Landlord and Landlord shall have been furnished with the name and address of the assignee. The term "Tenant" shall be deemed to include the assignee under any such permitted assignment. The term "Landlord" shall include any successors to or assigns of the Landlord's interest in the Premises following any foreclosure

of the Mortgage, including Trustee or any purchaser at a trustee's or sheriff's sale of the Premises.

**32.9 Gender and Number.** As used in this Lease, the masculine shall include the feminine and neuter, the feminine shall include the masculine and neuter, the neuter shall include the masculine and feminine, the singular shall include the plural and the plural shall include the singular, as the context may require.

**32.10 Nondiscrimination.** Landlord and Tenant each agree it will not discriminate in employment at the Premises on the basis of race, color, religion, sex, national origin, veteran status, sexual orientation or physical and mental disability in regard to any position for which the prospective employee is qualified, nor will Landlord or Tenant maintain facilities which are segregated on the basis of race, color, religion, sex or national origin at the Premises.

**32.11 Recording; Memorandum of Lease.** Neither Landlord nor Tenant shall record this Lease without the written consent of the other; provided, however, that Tenant shall have the right to record a Memorandum of this Lease in the form attached hereto as **EXHIBIT F** and by this reference incorporated herein upon the Effective Date. Such Memorandum of Lease shall be amended by the parties and a new Memorandum recorded once the Commencement Date and Expiration Date of this Lease has been determined.

**32.12 Amendment of Lease; Bond Insurer Consent.** So long as the Bonds remain outstanding and there has been no default by the Bond Insurer under the terms of its municipal bond insurance policy which insures payment of principal and interest on the Bonds, there shall be no amendment of this Lease without the prior written consent of the Bond Insurer.

**32.13 Time Is of the Essence.** Time is of the essence in the performance of each party's obligations under this Lease. Each party will carry out its obligations under this Lease diligently and in good faith.

**33. Prevailing Wage.** Landlord agrees and covenants with Tenant that the Development Agreement shall obligate Developer to require contractors and subcontractors of such Contractors in connection with such contracts as may be let regarding the construction of the Project to pay the prevailing wage, as defined in RCW ch. 39.12, to the workmen, laborers and mechanics as may then be determined by the Washington State Department of Labor and Industries for the particular craft in the particular geographic area.

**34. Authority.** Landlord is a Washington nonprofit corporation, duly organized, validly existing and in good standing under the laws of the State of Washington. Tenant is a political subdivision of the State of Washington. By execution of this Lease, Landlord and Tenant represent that they have authority to enter into this Lease.

**35. Options to Prepay Lease and Purchase Premises.**

**35.1 Option to Purchase.** Provided that Tenant is not in default under this Lease (including payment of any Additional Rent then due and owing), Tenant shall have the option to purchase the Premises and thereby terminate this Lease at any time on or after

December 1, 20\_\_ . The purchase price of the Premises shall be an amount equal to the total outstanding principal amount of Monthly Rent payments set forth on **EXHIBIT A**, plus interest accrued thereon to the date of prepayment at the applicable rate(s) set forth on **EXHIBIT A**, plus an option exercise fee of one dollar (\$1.00).

**35.2 Exercise of Option.** Tenant shall give Landlord not less than forty-five (45) days' prior written notice of its election to exercise its option to purchase under Section 35.1 hereof in the form set forth in **EXHIBIT I** attached hereto. The purchase price and any Additional Rent then due and owing shall be paid in cash or same-day available funds by 10:00 a.m. Seattle time on the payment date specified in such notice (or such other date as Tenant and Landlord may mutually agree).

**35.3 Conveyance of Premises.** On the payment date specified in the notice of election to exercise the purchase option, or such other date as Tenant and Landlord may mutually agree, Landlord shall convey the Premises to Tenant by statutory warranty deed, and this Lease shall terminate. Said deed may list as exceptions all covenants, conditions and restrictions then recorded against the Premises so long as such exceptions: (i) were approved by Tenant prior to the Commencement Date of this Lease; (ii) consist of non-delinquent real estate taxes and assessments, or (iii) arise by reason of Tenant's activities. Tenant shall pay the cost for any owner's policy of title insurance it elects to obtain in connection with such purchase. Landlord shall not be required to make any representations regarding the conditions of the Premises and Tenant agrees to accept the Premises in an "as is" condition. Nothing herein shall be construed to require Tenant to exercise the purchase option herein granted.

**35.4 Option to Partially Prepay Lease.** Tenant shall have the option to partially prepay the principal component of Monthly Rent, in \$5,000 increments for periods to be determined by Tenant (as represented by the principal portion of Monthly Rent due each year as set forth in **EXHIBIT A**). Notice of such intent to prepay shall be given to Landlord in writing not less than forty-five (45) days in advance of the intended prepayment date. Such prepayment may be at any time on or after December 1, 20\_\_ . The notice of partial prepayment shall be substantially in the form set forth on **EXHIBIT J** attached hereto. By 10:00 a.m. Seattle time on the date set for such prepayment, Tenant shall pay to Landlord in cash or same-day available funds, an amount equal to the principal portion of Monthly Rent to be prepaid, together with interest thereon to the date of prepayment. Upon such prepayment, the term of this Lease shall be deemed modified such that this Lease terminates on the payment date for the last outstanding Monthly Rent not prepaid.



DATED the date first above written.

LANDLORD:

**GOAT HILL PROPERTIES,**  
a Washington nonprofit corporation

By \_\_\_\_\_  
Name: John Finke  
Title: Vice President  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

TENANT:

**KING COUNTY,**  
a political subdivision of the  
State of Washington

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF WASHINGTON }  
COUNTY OF KING } ss.

I certify that I know or have satisfactory evidence that John Finke 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 Vice President of **GOAT HILL PROPERTIES**, a Washington nonprofit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON }  
COUNTY OF KING } ss.

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that [he/she] signed this instrument, on oath stated that [he/she] was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of **KING COUNTY**, a political subdivision of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**EXHIBIT A**  
**MONTHLY RENT**

Prior to Bond Closing, this Lease shall be amended to set forth a Monthly Rent schedule beginning as of the Commencement Date and continuing for the Term of the Lease. Monthly Rent shall be in an amount, when taken together with the Monthly Rent payable under the Garage Lease, sufficient to provide debt service on the Bonds and shall reflect an amortization schedule proposed by Landlord and approved by Tenant. [In no event shall the average Monthly Rent exceed \$\_\_\_\_\_ per rentable square foot of the Building for that period beginning on the Commencement Date and ending on the scheduled Expiration Date of the Lease.]

**EXHIBIT B**

**SCHEDULE OF PRELIMINARY PLANS AND OUTLINE SPECIFICATIONS**

**EXHIBIT C**  
**PROJECT SCHEDULE**

## EXHIBIT D

### LAND

#### GARAGE LAND:

##### Parcel "A":

Lots 1 through 8, inclusive, in Block 36 of Plat of an Addition to the Town of Seattle, as laid out on the claims of C. D. Boren and A. A. Denny and H. L. Yesler (commonly known as C. D. Boren's Addition to the City of Seattle), according to plat recorded in Volume 1 of plats at Page(s) 25, in King County, Washington.

Except that portion thereof, of Lot 6 conveyed to the State of Washington for highway purposes by deed recorded under Recording No. 5473610;

and Except that portion thereof, of Lot 7 conveyed to the State of Washington for highway purposes by deed recorded under Recording No. 5473611.

##### Parcel "B":

That part of Lots 2, 3, 6 and 7 in Block 40 of Plat of an Addition to the Town of Seattle, as laid out on the claims of C. D. Boren and A. A. Denny and H. L. Yesler (commonly known as C. D. Boren's Addition to the City of Seattle), according to plat recorded in Volume 1 of plats at Page(s) 25, lying Southwesterly of a line drawn parallel with and 30.0 feet Southwesterly, when measured at right angles and/or radially, from the James-6th F.R. Line Survey of SR 5, Seattle Freeway: Jackson St. to Olive Way, in King County, Washington.

APN: 094200-1050-08

#### BUILDING LAND:

Lots 2, 3, 6 and 7 in Block 37 of Plat of an Addition to the Town of Seattle, as laid out on the claims of C. D. Boren and A. A. Denny and H. L. Yesler (commonly known as C. D. Boren's Addition to the City of Seattle), according to plat recorded in Volume 1 of plats at Page(s) 25, in King County, Washington.

APN: 094200-1105-03

**EXHIBIT E**

**CONFIRMATION OF COMMENCEMENT AND EXPIRATION DATES**

In accordance with the provisions of Section 3 of the Lease as of this \_\_\_\_\_ day of \_\_\_\_\_, 2004, Landlord and Tenant acknowledge, agree and confirm the following:

The Commencement Date of this Lease is: \_\_\_\_\_.

The Expiration Date of this Lease is: \_\_\_\_\_.

The foregoing agreement and confirmation shall be binding upon Landlord and Tenant and shall supersede and control over any other provision in the Lease regarding the Commencement Date and Expiration Date which might be construed other than as set forth in this Confirmation.

AGREED the day and year first above written.

LANDLORD:

**GOAT HILL PROPERTIES,**  
a Washington nonprofit corporation

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

TENANT:

**KING COUNTY,**  
a political subdivision of the  
State of Washington

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT F**

*RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:*

HILLIS CLARK MARTIN & PETERSON, P.S.  
Attn: Steven R. Rovig  
500 Galland Building  
1221 Second Avenue  
Seattle, WA 98101-2925

**MEMORANDUM OF PROJECT LEASE**

GRANTOR: GOAT HILL PROPERTIES

GRANTEE: KING COUNTY

Legal Description:

Abbreviated form:

Additional legal on page **Exhibit A** of document

Assessor's Tax Parcel ID No(s):

Reference number(s) of Related Document(s):

(Additional on page \_\_\_ of document)



## MEMORANDUM OF PROJECT LEASE

THIS MEMORANDUM OF LEASE (the "Memorandum") is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2004 and between **GOAT HILL PROPERTIES**, a Washington nonprofit corporation ("Landlord"), and **KING COUNTY**, a political subdivision of the State of Washington ("Tenant").

**1. Lease.** Landlord has leased to Tenant the Premises described in **Exhibit A** attached hereto and by this reference incorporated herein (the "Premises") at a rent and on the terms and conditions set forth in that certain Project Lease Agreement dated \_\_\_\_\_, 2004 by and between Landlord and Tenant (the "Lease"). The Lease is for a term expiring \_\_\_\_\_, 20\_\_ unless sooner terminated pursuant to the terms of the Lease; provided, however, that the Tenant's duty to pay Monthly Rent shall not commence until the Commencement Date.

**2. Definition of Terms.** All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Lease.

**3. Tax Exemption.** In accordance with RCW 35.42.090, the Lease shall be exempt from any taxes imposed under the authority of RCW ch. 82.45, RCW 82.04.040 or RCW 82.08.090.

**4. Purpose of Memorandum.** This Memorandum is prepared for purposes of recordation only and does not set forth all of the terms and conditions set forth in the Lease. In the event there is any conflict between the terms and conditions of the Lease and this Memorandum, the Lease shall control.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

LANDLORD:

**GOAT HILL PROPERTIES,**  
a Washington nonprofit corporation

By \_\_\_\_\_

Name: John Finke  
Title: Vice President  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

TENANT:

**KING COUNTY,**  
a political subdivision of the  
State of Washington

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF WASHINGTON }  
COUNTY OF KING } ss.

I certify that I know or have satisfactory evidence that John Finke 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 Vice President of **GOAT HILL PROPERTIES**, a Washington nonprofit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON }  
COUNTY OF KING } ss.

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that [he/she] signed this instrument, on oath stated that [he/she] was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of **KING COUNTY**, a political subdivision of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

## EXHIBIT A

### LAND

#### GARAGE LAND:

##### Parcel "A":

Lots 1 through 8, inclusive, in Block 36 of Plat of an Addition to the Town of Seattle, as laid out on the claims of C. D. Boren and A. A. Denny and H. L. Yesler (commonly known as C. D. Boren's Addition to the City of Seattle), according to plat recorded in Volume 1 of plats at Page(s) 25, in King County, Washington.

Except that portion thereof, of Lot 6 conveyed to the State of Washington for highway purposes by deed recorded under Recording No. 5473610;

and Except that portion thereof, of Lot 7 conveyed to the State of Washington for highway purposes by deed recorded under Recording No. 5473611.

##### Parcel "B":

That part of Lots 2, 3, 6 and 7 in Block 40 of Plat of an Addition to the Town of Seattle, as laid out on the claims of C. D. Boren and A. A. Denny and H. L. Yesler (commonly known as C. D. Boren's Addition to the City of Seattle), according to plat recorded in Volume 1 of plats at Page(s) 25, lying Southwesterly of a line drawn parallel with and 30.0 feet Southwesterly, when measured at right angles and/or radially, from the James-6th F.R. Line Survey of SR 5, Seattle Freeway: Jackson St. to Olive Way, in King County, Washington.

APN: 094200-1050-08

#### BUILDING LAND:

Lots 2, 3, 6 and 7 in Block 37 of Plat of an Addition to the Town of Seattle, as laid out on the claims of C. D. Boren and A. A. Denny and H. L. Yesler (commonly known as C. D. Boren's Addition to the City of Seattle), according to plat recorded in Volume 1 of plats at Page(s) 25, in King County, Washington.

APN: 094200-1105-03

## EXHIBIT G

### DISPUTE RESOLUTION PROCEDURE

Landlord and Tenant shall act in good faith and deal fairly in performing their respective duties under this Lease in order to accomplish their mutual objectives and avoid disputes. If a dispute arises with respect to design or construction of the Project, the parties agree to utilize the dispute resolution process contained herein, which will be non-binding but a condition precedent to having said dispute decided in court by a judge or jury.

**1. Mediation.** Pursuant to Section 9.6 of this Lease, in the event a dispute arises between Tenant and Landlord with respect to design and/or construction of the Project the parties shall proceed in good faith to resolve such dispute as expeditiously as possible and shall cooperate so that the progress of the design and construction of the Project is not delayed. If, however, the parties are unable to resolve the dispute within three (3) business days, either party may refer the dispute to the Mediator named below.

**1.1 Mediator.** For any dispute which cannot be resolved by the parties, the mediator hereunder ("Mediator") shall be John Beyer of Badger Consulting Services, or in the event he is unable or unwilling to act as such independent mediator, a mediator whom Landlord and Tenant have mutually designated to resolve such dispute. The Mediator is to act impartially and independently in the consideration of facts and conditions surrounding any dispute presented by Tenant and Landlord; however, the Mediator's recommendations concerning any such dispute are advisory only. The Mediator's recommendations shall be based on the pertinent Lease provisions, and the facts and circumstances involved in the dispute. The Mediator's recommendations shall be furnished in writing to the parties.

**1.2 Tenant Responsibility.** Tenant shall furnish the Mediator one copy of all documents it might have, other than those furnished by Landlord, which are pertinent to the performance of the Mediator's duties hereunder.

**1.3 Landlord Responsibility.** Landlord shall furnish the Mediator one copy of all Contract Documents, including but not limited to the Preliminary Plans and Outline Specifications, applicable contracts, interpretative reports, progress schedule and updates, monthly progress reports, and other documents pertinent to the performance of the Lease and necessary to the performance of the Mediator's duties hereunder.

**1.4 Term.** Following execution of this Lease, the Mediator shall have authority to act hereunder upon written request from either Landlord or Tenant and such authority shall terminate upon Final Acceptance, after Final Payment has been made.

**1.5 Payment.** The fees charged by the Mediator shall be shared equally by the parties. The Mediator's compensation shall include compensation for all materials, supplies, travel, office assistance and support and incidentals necessary to provide the services described herein. Payment for services rendered by the Mediator will be at the Mediator's standard hourly rate as approved by Landlord and Tenant prior to commencement of the dispute resolution proceeding.

**1.6 Legal Relationship.** The Mediator, in the performance of the duties described herein, is acting in the capacity of an independent agent and not as an employee of either Tenant or Landlord. The Mediator is absolved of any personal or professional liability arising from the recommendations made hereunder, unless due to gross negligence or willful malfeasance.

## EXHIBIT H

### TENANT IMPROVEMENT SCHEDULE

**1. WITH SHELL AND CORE.** In order to have the Tenant Improvements in the Garage bid with the Base Shell and Core Garage, Tenant must deliver the Final Plans (as defined below) to Developer no later than the date seventy five (75) days after Bond Closing. In order to have the Tenant Improvements in the Building bid with the Base Shell and Core Building, Tenant must deliver the Final Plans (as defined below) to Developer no later than the date one hundred twenty (120) days after Bond Closing. Notwithstanding the foregoing, with respect to any Tenant Improvements in the Building that are not standard office space improvements (e.g., computer center, print shop, cafeteria, conferencing center), the engineering drawings (but not the architectural drawings) for such Tenant Improvements must be delivered to Developer no later than the date ninety (90) days after Bond Closing in order to have such Tenant Improvements bid with the Base Shell and Core Building.

**2. SEPARATE FROM SHELL AND CORE.** If Tenant does not meet the above dates, the Tenant Improvements in each of the Garage and Building shall be bid separately from the Base Shell and Core Garage and the Base Shell and Core Building. In order to avoid an Owner-Caused Delay, as described in Section 2(b) of the Development Agreement, Tenant must deliver to Developer (i) the Final Plans for the Garage no later than the date seventy five (75) days after Bond Closing; and (ii) the Final Plans for the Building no later than the date three hundred sixty (360) days after Bond Closing. Notwithstanding the foregoing, with respect to any Tenant Improvements in the Building that are not standard office space improvements (e.g., computer center, print shop, cafeteria, conferencing center), the engineering drawings (but not the architectural drawings) for such Tenant Improvements must be delivered to Developer no later than the date ninety (90) days after Bond Closing in order to avoid an Owner-Caused Delay.

**3. DESCRIPTION OF MATERIALS.** The "Final Plans" shall mean plans for the Tenant Improvements that include all of the following information:

**(a) Architectural Floor Plans:** These shall be fully dimensioned floor plans showing partition layout and identifying each room with a number and each door with a number. The Basic Plans must clearly identify and locate equipment requiring plumbing or other special mechanical systems, area(s) subject to above-normal floor loads, special openings in the floor, and other major or special features.

**(b) Electrical and Telephone Outlets:** Locate all power and telephone requirements: Dimension the position from a corner and give height above concrete slab for all critically located outlets. Identify all dedicated circuits and identify all power outlets greater than 120 volts. For the equipment used in these outlets which require dedicated circuits and/or which require greater than 120 volts, identify the type of equipment, the manufacturer's name and the manufacturer's model number, and submit a brochure for each piece of equipment. Also identify the manufacturer's name of the phone system to be used and the power requirements, size, and location of its processing equipment.

(c) **Reflected Ceiling Plan:** Lighting layout showing location and type of all Building Standard and special lighting fixtures.

(d) **Furniture Layout:** Layout showing furniture location so that Landlord's engineer can review the location of all light fixtures.

(e) **Millwork Details:** These drawings shall be in final form with Tenant's office planner's title block in the lower right hand corner of the drawing, and shall include construction details of all cabinets, paneling, trim, bookcases, and door and jamb details for non-Building Standard doors and jambs.

(f) **Keying Schedules and Hardware Information:** This information shall be in final form and include a Keying Schedule indicating which doors are locked and which key(s) open each lock, plus an "X" on the side of the door where the key will be inserted if a keyed door. Complete specifications for all non-Building Standard hardware will also be provided.

(g) **Room Finish and Color Schedule:** This information shall be in final form and include locations and specifications for all wall finishes, floor covering and base for each room.

(h) **Construction Notes and Specifications:** Complete specifications for every item included except those specified by Landlord.

Tenant shall be responsible for delays and additional costs in completion of Tenant's work caused by changes made to the Final Plans after the Final Plans have been delivered to Developer or by delays in delivery of special materials requiring long lead times.



**EXHIBIT I**  
**FORM OF NOTICE OF ELECTION**  
**OF OPTION TO PURCHASE**

[date]

To: Landlord

You are hereby notified that King County has elected to exercise on [date of payment] its option to purchase the King County Office Building ("Premises") currently leased by King County pursuant to the Project Lease Agreement ("Lease") by and between King County and Landlord dated \_\_\_\_\_, 2004. This purchase option is being exercised pursuant to Section 30.1 of the Lease. King County is now, and on the date set forth above for payment will be, in full compliance with all terms and conditions of the Lease. In accordance with Section 30.1 of the Lease, King County shall purchase the Premises for a price of the total outstanding principal portion of the Monthly Rent set forth in Exhibit A to the Lease plus accrued interest thereon to the date of payment at the rates set forth in Exhibit A of the Lease, plus an option fee of \$1.00, for a total Purchase Price of \$\_\_\_\_\_. On or prior to the date set forth above, King County shall also pay any Additional Rent then due and owing under the Lease. King County acknowledges that this Option is only valid if exercised simultaneously with the option to purchase the Garage constructed pursuant to the Garage Lease.

APPROVED AS TO FORM:

TENANT:

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**KING COUNTY,**  
a political subdivision of the  
State of Washington

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT J**

**FORM OF NOTICE OF ELECTION  
TO PARTIALLY PREPAY MONTHLY RENT**

[date]

To: Landlord

You are hereby notified that King County has elected to exercise its option to prepay a portion of the Monthly Rent due under that certain Project Lease Agreement ("Lease") by and between the County and Landlord dated \_\_\_\_\_, 2004. In accordance with Section 30.4 of the Lease, the date of prepayment shall be \_\_\_\_\_, and the principal portion of Monthly Rent to be prepaid on such date is \_\_\_\_\_, representing the maturities (or portions thereof) set forth below. By 10:00 a.m. Seattle time on such date, King County shall pay to Landlord in cash or same-day available funds, an amount equal to the principal portion of Monthly Rent to be prepaid, together with interest thereon accruing to such date, together with any other amounts payable under the Lease on such date. In accordance with that certain Indenture of Trust dated \_\_\_\_\_, 20\_\_, by Landlord and \_\_\_\_\_, as Trustee, Landlord shall direct Trustee to cause an optional redemption of the Bonds in principal amounts and maturities corresponding to the principal portion of Monthly Rent set forth below.

APPROVED AS TO FORM:

TENANT:

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**KING COUNTY,**  
a political subdivision of the  
State of Washington

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE OF PRINCIPAL COMPONENT OF MONTHLY RENT  
TO BE PREPAID AND BONDS TO BE REDEEMED**

<u>Date Principal Component (of Monthly Rent) Due</u>	<u>Amount of Principal Component to be Prepaid*</u>
---	---

\*Principal may be prepaid only in increments of \$5,000.

## EXHIBIT K

### MINIMUM INSURANCE REQUIREMENTS FOR DEVELOPER

#### Coverage:

Coverage shall be at least as broad as:

- (i) General Liability: Insurance Services Office form number (CG00 001) covering Commercial General Liability, with a limit of not less than; \$5,000,000 combined single limit per occurrence, \$5,000,000 aggregate.
- (ii) Automobile Liability: Insurance Services Office form number (CA 00 01) covering Business Automobile Coverage, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9, with a limit of not less than; \$1,000,000 combined single limit per occurrence.
- (iii) Workers' Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, statutory limits.
- (iv) Employer's Liability or "Stop Gap": The protection provided by the Workers' Compensation Policy, Part 2 (Employer's Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the General Liability Policy in the amount of at least \$1,000,000.
- (v) Builder's Risk Insurance: Builder's All Risk Coverage Form, including earth movement, covering 100% of the replacement value of the Project. Developer shall keep the Builder's Risk Insurance in place from the commencement of construction of the Project until the Commencement Date defined in this Lease.

#### Deductibles and Self-Insured Retentions:

Any deductibles or self-insured retentions must be declared to and approved by Landlord. The deductible and/or self-insured retention of the policies shall not limit or apply to Landlord and shall be the sole responsibility of Developer.

#### Other Insurance Provisions:

The insurance policies required by the Development Agreement are to contain or be endorsed to contain the following provisions where applicable:

(A) Liability Policies:

- (i) Landlord and Tenant, their officers, officials, employees and agents are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Developer in connection with the Development Agreement.
- (ii) Developer's insurance coverage shall be primary insurance as respects Landlord and Tenant their officers, officials, employees and agents. Any insurance and/or self-insurance maintained by Landlord and/or Tenant their officers, officials, employees and/agents shall not contribute with Developer's insurance or benefit Developer in any way.
- (iii) Developer's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(B) All Policies.

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days' prior written notice has been given to Landlord.

(C) Acceptability of Insurers.

Unless otherwise approved by Landlord and Tenant, insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's, with minimum surpluses the equivalent of Best's surplus size VIII.

Professional Liability, Errors and Omissions insurance may be placed with insurers with a Best's rating of B+: VII. Any exceptions must be approved by Landlord.

If, at anytime, any of the foregoing policies shall fail to meet the above minimum standards, Developer shall, upon notice to that effect from Landlord, promptly obtain a new policy, and shall submit the same to Landlord, with certificates and endorsements, for approval.

(D) Verification of Coverage.

Developer shall furnish Landlord with certificates of insurance and endorsements required by the Development Agreement. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms approved by Landlord and Tenant and are to be received and approved by Landlord prior to the commencement of activities associated with the

Development Agreement. Landlord and Tenant reserve the right to require complete certified copies of all required policies at any time.

(E) Subcontractors.

Developer shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages provided by subcontractors as evidence of compliance with the insurance requirements of the Development Agreement shall be subject to all of the requirements stated herein.

**For All Coverages:**

Each insurance policy shall be written on an "occurrence" form, excepting that insurance for professional liability, errors and omissions, when required, may be acceptable on a "claims made" form.

If coverage is approved and purchased on a "claims made" basis, Developer warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is subject to said insurance.

By requiring such minimum insurance, Landlord and/or Tenant shall not be deemed to, or construed to, have assessed the risks that may be applicable to Developer associated with the Development Agreement. Developer shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(ies). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Lease Agreement.

## EXHIBIT L

### MINIMUM INSURANCE REQUIREMENTS FOR GENERAL CONTRACTOR

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(ies). Nothing contained within these provisions shall affect and/or alter the application of any other provision contained within the General Construction Contract.

#### Scope and Limits of Insurance:

Coverage shall be at least as broad as:

- (i) General Liability: Insurance Services Office form number (CG00 001) covering Commercial General Liability, with a limit of not less than: \$10,000,000 combined single, project limit (project specific), per occurrence, \$10,000,000 aggregate.

The policy shall include but not be limited to:

- (a) coverage for premises and operations;
- (b) contractual liability (including specifically liability assumed in the General Construction Contract);
- (c) products and completed operations and
- (d) Employers Liability or "Stop-Gap" coverage.

The policy shall not exclude:

- (a) coverage for lateral support, underground, explosion or collapse hazards
- (ii) Automobile Liability: Insurance Services Office form number (CA 00 01) Covering Business Automobile Coverage, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9, for a limit of not less than \$10,000,000 combined single limit per occurrence.
- (iii) Workers' Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, statutory limits.

**Deductibles and Self-Insured Retentions:**

Any deductibles or self-insured retentions must be declared to and approved by Landlord. The deductible and/or self-insured retention of the policies shall not limit or apply to Landlord, Tenant or Developer and shall be the sole responsibility of the General Contractor.

**Other Insurance Provisions:**

The insurance policies required by the General Construction Contract are to contain or be endorsed to contain the following provisions where applicable:

- (A) Liability Policies:
  - (i) Landlord, Tenant and Developer, their officers, officials, employees and agents are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the General Contractor in connection with the General Construction Contract.
  - (ii) General Contractor's insurance coverage shall be primary insurance as respects Landlord, Tenant and Developer, their officers, officials, employees and agents. Any insurance and/or self-insurance maintained by Landlord, Tenant and Developer, their officers, officials, employees and/agents shall not contribute with the General Contractor's insurance or benefit the General Contractor in any way.
  - (iii) General Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(B) Builder's Risk Policy.

The Builder's Risk policy shall include Landlord and Tenant as an additional insured in the amount equal to their interest, as such interest may appear.

(C) All Policies.

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days' prior written notice has been given to Landlord.

(D) Acceptability of Insurers.

Unless otherwise approved by Landlord:

Insurance is to be placed with insurers with a Best's rating of no less than A: VIII, or, if not rated by Best's, with minimum surpluses the equivalent of Best's surplus size VIII.



If at any time any of the foregoing policies fail to meet the above minimum standards, the General Contractor shall, upon notice to that effect from Landlord, promptly obtain a new policy, and shall submit the same to Landlord, with certificates and endorsements, for approval.

(E) Verification of Coverage.

Contractor shall furnish Landlord with certificates of insurance and endorsements required by the Construction Contract. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms approved by Landlord and are to be received and approved by Landlord prior to the commencement of activities associated with the General Construction Contract. Landlord reserves the right to require complete certified copies of all required policies at any time.

(F) Subcontractors.

Contractor may include all subcontractors as insureds under its policies, or may furnish separate certificates of insurance and policy endorsements from each subcontractor. The limits of liability required to be carried by any subcontractor shall be determined by the General Contractor, subject to the approval of Landlord and Developer.

**Contractors Indemnification:**

Within the General Construction Contract between Landlord and the General Contractor, Landlord shall include the following the General Contractor's indemnification provision:

Contractor shall protect, defend, indemnify and save harmless Landlord, Tenant and Developer, their officers, officials, employees and agents, from any and all claims, demands, suits, penalties, losses, damages, judgments or costs of any kind whatsoever, (hereinafter "claims"), arising out of or in any way resulting from the General Contractor, its officers, employees agents and/or subcontractors of all tiers, acts or omissions, performance or failure to perform the General Construction Contract, to the maximum extent permitted by law or as defined by RCW 4.24.115, now enacted or as hereinafter amended.

Contractor agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. The General Contractor's obligations under this section shall include, but not be limited to:

- (a) the duty to promptly accept tender of defense and provide defense to Landlord, Tenant and Developer at the General Contractor's own expense.

- (b) the duty to indemnify and defend Landlord, Tenant and Developer from any claim, demand, and/or cause of action brought by or on behalf of any of its employees, or agents. The foregoing duty is specifically and expressly intended to constitute a waiver of the General Contractor's immunity under Washington's Industrial Insurance act, RCW Title 51, as respects Landlord, Tenant and Developer only, and only to the extent necessary to provide Landlord, Tenant and Developer with a full and complete indemnity and defense of claims made by the General Contractor's employees. The parties acknowledge that these provisions were mutually negotiated and agreed upon by them.
- (c) To the maximum extent permitted by law, the General Contractor shall indemnify and defend Landlord, Tenant and Developer from and be liable for all damages and injury which shall be caused to owners of property on or in the vicinity of the work or which shall occur to any person or persons or property whatsoever arising out of the performance of the General Construction Contract, whether or not such injury or damage is caused by negligence of the General Contractor or caused by the inherent nature of the work specified.

In case any suit or legal proceedings is brought against Landlord, Tenant and/or Developer or any of their officers, officials, employees or agents, on account of loss or damage sustained by any person or property as a result of the performance of the General Construction Contract, whether or not such injury or damage is due to the negligence of the General Contractor and whether or not such injury or damage is caused by the inherent nature of the work specified, the General Contractor agrees to assume the defense thereof and to pay all expenses connected therewith on behalf of Landlord, tenant and/or Developer, their officers, officials, employees and agents.

Landlord may, in its sole discretion, (1) withhold amounts sufficient to pay the amount of any property damage or bodily injury claim (claim for injury) and/or (2) pay any property damage claim (for injury) of which Landlord may have knowledge, regardless of the formalities of notice of such claim, arising out of the performance of the General Construction Contract.

An amount withheld will be held until the General Contractor secures a written release from the claimant, obtains a court decision that such claim is without merit, or satisfies any judgment on such claim. In addition, the General Contractor shall reimburse and otherwise be liable for claims costs incurred by Landlord, Tenant and/or Developer including without limitation costs for claims adjusting services, attorneys, engineering and administration.

In the event Landlord, Tenant or Developer incurs any judgment, award and/or costs arising therefrom, including attorney's fees to enforce the provisions of this article, all such fees, expenses and costs shall be recoverable from Developer.