

3-4-98

Introduced By: Hague

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Proposed No.: 98-009

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ORDINANCE NO. **13023**

AN ORDINANCE authorizing the execution of a lease (with option to purchase) for facilities to house the Issaquah District Court; with the amount of such lease payments to be established by subsequent motion of the council; providing for the annual levy of taxes to pay such lease payments; and approving a form of trust agreement and other aspects of the lease financing plan.

PREAMBLE:

The council, by Motion No. 9701 passed on October 23, 1995, has approved the general proposal for a new Issaquah District Court facility, and by such motion the council requested that the court evaluate financing alternatives for the project, including lease-to-own a built-to-suit facility.

The county is authorized by Chapter 36.89 RCW to acquire courthouse facilities by lease, and the court has proposed to the council and the council wishes to approve a lease financing plan for acquisition of the new court facility.

To complete the lease financing plan authorized by this ordinance, the council recognizes that certificates of participation in payments under the lease will be issued and sold and that the county's lease payments will be based on the principal of and interest on such certificates of participation.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Definitions. Unless otherwise defined herein, all capitalized terms used in this ordinance shall have the meanings given such terms in the Lease, a copy of which is attached as Exhibit A hereto and incorporated herein by this reference.

SECTION 2. Findings. It is hereby found and declared that the public interest, welfare and benefit require the county to lease the real property legally described in the

1 Lease and the improvements to be constructed thereon in accordance with plans and
2 specifications approved by the county, as described in the Lease (together, the "Leased
3 Premises") to provide courthouse facilities for the Issaquah District Court.

4 SECTION 3. Authorization of Lease. The county executive is hereby authorized
5 on behalf of the county to execute the Lease in substantially the form attached hereto as
6 Exhibit A, subject to such changes as may be deemed necessary and advisable by the
7 county finance director and bond counsel to the county. Said Lease shall provide for a
8 total principal component of Lease Payments of not to exceed \$5,900,000 to be paid in the
9 years and in the amounts, on such dates, and subject to prepayment at such times, as shall
10 be set forth in the Lease. Prior to execution of the Lease by the county executive, the
11 council shall approve by subsequent motion the final Lease Payment amounts in the Lease
12 and the allocation of principal and interest components of the Lease Payments in the Lease.
13 The council recognizes that certificates of participation in the Lease Payments (the
14 "Certificates") will be issued and sold and that the principal and interest components of the
15 Lease Payments will be based on the principal of and interest on such Certificates.

16 SECTION 4. Approval of Trust Agreement and Issuance of Certificates of
17 Participation. In connection with the lease financing transaction authorized herein, the
18 county executive is hereby authorized to execute an acknowledgment and approval of a
19 trust agreement (the "Trust Agreement") by and between First Trust National Association
20 as trustee and Issaquah Courthouse, LLC (the "Developer"), which Trust Agreement shall
21 be in substantially the form attached as Exhibit B hereto and incorporated herein by this
22 reference, with such changes as may be deemed necessary and advisable by the county
23 finance director and bond counsel to the county. The county hereby acknowledges and
24 approves the assignment to the Trustee of Developer's right to receive the Lease Payments
25 under the Lease and the issuance of the Certificates, all as provided in the Trust
26 Agreement. The county further acknowledges that, under Rule 15c2-12 of the Securities
27 and Exchange Commission (the "Rule"), it will be an "obligated person" with respect to the

1 Certificates. The finance director of the county or his designee is hereby authorized to
2 "deem final" pursuant to the Rule the preliminary official statement for the Certificates
3 and, on or prior to the date of issue of the Certificates, to enter into an undertaking to
4 provide continuing disclosure about the county and the Certificates as may be required
5 under the Rule.

6 SECTION 5. Pledge of Taxation and Credit. The county hereby irrevocably
7 covenants and agrees for as long as the Lease remains outstanding and unpaid, that each
8 year it will include in its budget and levy an *ad valorem* tax upon all the property within
9 the county subject to taxation in an amount that will be sufficient, together with all other
10 revenues and money of the county legally available for such purposes, to pay the Lease
11 Payments as the same shall become due.

12 The county hereby irrevocably pledges that the annual tax provided for herein to be
13 levied for the payment of such Lease Payments shall be within and as a part of the tax levy
14 permitted to counties without a vote of the people, and that a sufficient portion of each
15 annual levy to be levied and collected by the county prior to the full payment of the Lease
16 Payments will be and is hereby irrevocably set aside, pledged and appropriated for the
17 payment of such Lease Payments.

18 The full faith, credit and resources of the county are hereby irrevocably pledged for
19 the annual levy and collection of said taxes and for the prompt payment of the Lease
20 Payments as the same shall become due.

21 SECTION 6. Tax-Exemption. The county shall comply with the provisions of
22 this section unless, in the written opinion of nationally-recognized bond counsel to the
23 county, such compliance is not required in order to maintain the exemption of the interest
24 component of the Lease Payments from federal income taxation.

25 The county hereby covenants that it will not make any use of the Leased Premises
26 or of any funds of the county that may be deemed to be proceeds of the Certificates
27 pursuant to Section 148 of the Code and the applicable regulations thereunder that will

1 cause the Lease or the Certificates to be "arbitrage bonds" within the meaning of said
2 section and said regulations. The county will comply with the applicable requirements of
3 Section 148 of the Code (or any successor provision thereof applicable to the Lease and the
4 Certificates) and the applicable regulations thereunder throughout the term of the Lease
5 and the Certificates.

6 The county further covenants that it will not take any action or permit any action to
7 be taken that would cause the Lease or the Certificates to constitute "private activity
8 bonds" under Section 141 of the Code.

9 SECTION 7. General Authorization. The appropriate county officials, agents and
10 representatives are hereby authorized and directed to do everything necessary for the
11 prompt execution, recording by memorandum and performance of the Lease, for the
12 acknowledgment and approval of the Trust Agreement, and for the preparation and
13 execution of all other certificates and agreements necessary or desirable for the completion
14 of the lease financing plan, including the issuance of the certificates of participation,
15 contemplated by this ordinance, the Lease and the Trust Agreement.

16 SECTION 8. Ratification of Past Acts. All actions heretofore taken by county
17 officers, staff, attorneys and agents consistent with the terms and purposes of this
18 ordinance are hereby ratified, confirmed and approved.

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SECTION 9. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the county shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Lease.

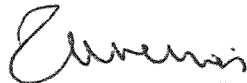
INTRODUCED AND READ for the first time this 5th day of January, 1998.

PASSED by a vote of 11 to 0 this 9th day of March, 1998.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Chair

ATTEST:



Clerk of the Council

APPROVED this 18 day of March, 1998.


King County Executive

Attachments: Exhibit A - Form of Lease
Exhibit B - Form of Trust Agreement

LEASE

13023

THIS LEASE (the "Lease"), made as of the _____ day of February, 1998, by and between KING COUNTY, a political subdivision duly formed and existing under the laws of the State of Washington, as Lessee (the "County"), and ISSAQUAH COURTHOUSE, LLC, a Washington limited liability company, as the initial lessor under this Lease (the "Lessor"),

WITNESSETH:

WHEREAS, the Lessor is the owner of certain unimproved real property located in King County, Washington, and legally described in Exhibit A attached hereto and by this reference incorporated herein (the "Land"); and

WHEREAS, the Lessor intends to build a courthouse facility containing approximately 16,642 gross square feet of space and approximately 107 parking spaces (the "Improvements") on the Land; and

WHEREAS, the County is authorized by Chapter 36.89 RCW to acquire courtroom facilities by lease; and

WHEREAS, Lessor shall lease the Land and the Improvements (collectively, the "Leased Premises") to the County pursuant to this Lease; provided, however, that in no event shall the County be liable for all or any part of the cost of the design or construction of the Improvements, nor shall the County be liable for payment of Lease Payments under the Lease from sources other than Prepaid Rent unless and until Substantial Completion of the Improvements; and

WHEREAS, the County is authorized to enter into this Lease by Ordinance No. 13023 of the County passed by the County Council on _____, 1998, and Motion No. _____ of the Council passed on _____, 1998;

NOW, THEREFORE, pursuant to law and for and in consideration of the mutual promises, covenants and conditions hereinafter contained the parties hereto agree as follows:

ARTICLE I

LEASED PREMISES

1.1. Leased Premises. Subject to the terms and conditions contained in this Lease, Lessor leases to the County, and the County hereby leases from Lessor, the Leased Premises. Effective as of the Substantial Completion Date, Lessor shall grant immediate possession and use of the Leased Premises to the County (in accordance with RCW 84.36.010).

1.2. Surplus Property. Lessor and the County acknowledge that this Lease may be amended, at the request of the Developer, at any time on or before _____, 2001, to exclude portions of the unimproved real property from the Land originally leased hereunder. The remaining Land hereunder shall consist of approximately 3.49 acres substantially in accordance with the preliminary legal description set forth on Exhibit A-1 of this Lease. In the event that the Developer elects so to exclude portions of the real property from the Land originally leased hereunder, the County and (if Developer is then no longer Lessor hereunder) the Trustee agree to cooperate fully with Developer in providing for such exclusion and shall execute such amendments to this Lease, the Trust Agreement, and the Assignment and Deed as may be necessary or desirable to effect such exclusion upon receipt by the County and (if Developer is then no longer Lessor hereunder) the Trustee of the following:

(i) A survey certified by a surveyor licensed to practice in the State of Washington delineating the boundaries and legal description of the remaining Land that will be leased hereunder;

(ii) An opinion of counsel or evidence satisfactory to the County and (if Developer is then no longer Lessor hereunder) the Trustee that the remaining Land (A) is assessed as a separate tax parcel and (B) will be in compliance with, and not in violation of, any applicable covenants, restrictions, statutes, laws, ordinances, rules and regulations pertaining to the use and development of the remaining Land, including but not limited to those pertaining to parking, lot coverage, and subdivision and platting;

(iii) A legal lot and zoning endorsement (123.2 endorsement) to any policy of title insurance held by the County and (if Developer is then no longer Lessor hereunder) the Trustee with respect to the Leased Premises in form and substance satisfactory to the County, the Trustee (if Developer is then no longer Lessor hereunder) and their counsel; and

(iv) An opinion of nationally recognized bond counsel that the exclusion of such real property from the remainder of the Land originally leased hereunder will not adversely affect the tax-exempt status of interest on the Certificates.

ARTICLE II

DEFINITIONS

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2.1. Definitions. As used in this Lease, the following terms shall have the following meanings:

"Additional Improvements" means any improvements or alterations to the Leased Premises that the County elects to make in accordance with Article VIII hereof.

"Additional Rent" means those amounts payable by the County pursuant to Section 5.2 hereof.

"Architect" means Baylis Brand Wagner, Architects.

"Certificate of Occupancy" means the temporary certificate of occupancy issued by the King County Department of Development and Environmental Services to Lessor certifying that the Improvements may be occupied.

"Certificates" means the certificates of participation in the Lease Payments executed and delivered by the Trustee pursuant to the Trust Agreement.

"Change Orders" means any County-Initiated Change Orders and any Lessor-Initiated Change Orders.

"Code" means the federal Internal Revenue Code of 1986, as amended, together with applicable regulations thereunder.

"Construction Documents" means the Construction Drawings and the General Contract.

"Construction Drawings" means the Construction Drawings and Detailed Specifications approved by the County in accordance with Section 3.1 hereof for construction of the Improvements, including technical drawings, schedules, diagrams, plans and specifications setting forth in detail the requirements for construction of the Improvements and providing information customarily required for the use of the building trades.

"County" means King County, a political subdivision of the state of Washington, as lessee hereunder.

"County Council" means the Metropolitan King County Council as the same may be constituted from time to time.

"County-Initiated Change Orders" means change orders during construction of the Improvements that are initiated by the County pursuant to Section 3.7(a) hereof.

"County Contingency Allowance" means the amount specified in the Project Budget to be allocated in accordance with Section 3.7(b) hereof to pay for County-Initiated Change Orders, if any.

"County Warranty Claim" shall have the meaning given such term in Section 3.11 of this Lease.

"DDES" means King County's Department of Development and Environmental Services.

"Developer" means Issaquah Courthouse, LLC, a Washington limited liability company, which is initial Lessor under this Lease and retains certain other obligations hereunder after its rights as Lessor have been assigned.

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

"General Contract" means the contract, in substantially the form attached as Exhibit J hereto, between Developer and General Contractor to construct the Improvements.

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"General Contractor" means J.R. Abbott Construction, Inc.

"Hazardous Substances" 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.

"Holdover Costs" has the meaning given such term in Section 3.10(d) hereof.

"Improvements" means the courthouse facility containing approximately 16,642 gross square feet of space and approximately 107 parking spaces to be constructed on the Land as described in the Plans, including all HVAC, electrical and building systems, the tenant improvements, and all other work consistent with and reasonably inferable from the Plans as being necessary to produce the intended results.

"Land" means the real property described in Exhibit A hereto, exclusive of the Improvements; provided, however, that pursuant to Section 1.2 of this Lease, certain of the real property described in Exhibit A hereto may be excluded from the Leased Premises.

"Lease" means this Lease by and between Lessor and County.

"Lease Payment Date" means each June 1 and December 1, commencing on June 1, 1998, during the term of this Lease, as set forth on Exhibit B-2 of this Lease.

"Lease Payments" means the aggregate of all payments due under Section 5.1 hereof.

"Leased Premises" means the Land together with the Improvements.

"Lessee's Project Manager" means the project manager for the Improvements identified by the County's Department of Construction and Facilities Management or his or her designee.

"Lessor" means, initially, the Developer, and then its assignee hereunder.

"Lessor-Initiated Change Orders" means change orders during construction of the Improvements that are initiated by the Lessor pursuant to Section 3.7(a) hereof.

"Permit Contingency Allowance" means the amount specified in the Project Budget to be allocated in accordance with Section 3.10(c) hereof to pay for certain costs resulting from delays in obtaining certain Permits from DDES.

"Permits" means those authorizations described in Section 3.2 hereof.

"Plans" means the preliminary plans and specifications for the Improvements and the General Contractor's assumptions and clarifications, all is set forth on Exhibit E of this Lease.

"Prepaid Rent" means the amounts provided for pursuant to the Trust Agreement, to pay Lease Payments under this Lease pending Substantial Completion of the Improvements.

"Project Budget" means the budget for construction of the Improvements attached to this Lease as Exhibit F, as revised from time to time in accordance with this Lease.

"Project Schedule" means the initial schedule for design and construction of the Improvements, as set forth on Exhibit G hereto.

"Required Completion Date" means December 1, 1999, or such later date as may be permitted pursuant to Section 3.3(d) hereof.

"Requirements of Law" means all requirements relating to land and building construction (including those specifically applicable to County's contemplated use of the Improvements as a district courthouse), including, without limitation, planning, zoning, subdivision, environmental, air quality, flood hazard, fire safety, accessibility (including applicable provisions of the Americans With Disabilities Act), 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, that now apply to and/or affect the design, construction, existence, intended use, operation and/or occupancy of the Land, the Improvements or any part thereof.

"Substantial Completion" means that the Improvements have been constructed in substantial accordance with the Construction Documents as evidenced by the documents described in Section 3.3(d) hereof.

"Substantial Completion Date" means the first date on which Substantial Completion occurs.

"Targeted Completion Date" means March 31, 1999, or such later date (i) as may be required to complete a County-Initiated Change Order in accordance with Sections 3.7(a) and 3.10(b) hereof or (ii) as may be permitted in the event of force majeure in accordance with Section 3.10(a) hereof or (iii) as may be permitted in the event of delays in obtaining a building permit in accordance with Section 3.10 hereof.

"Trust Agreement" means that certain Trust Agreement dated as of February 1, 1998, by and between the Developer and First Trust National Association, as Trustee, pursuant to which the Certificates are executed and delivered.

"Warranty Period" means that period commencing on the later of the date of issuance of (i) the Certificate of Occupancy or (ii) the Architect's Certificate described in Section 3.3(d) hereof, and ending one year thereafter or, in the event that any extended warranty is obtained pursuant to Section 3.9 hereof, such extended period.

ARTICLE III

DESIGN AND CONSTRUCTION OF IMPROVEMENTS BY LESSOR

3.1. Design of the Improvements. Attached hereto as Exhibit E and by this reference incorporated herein are the Plans. As provided herein, Lessor shall cause final design of the Improvements to be done by qualified architects, engineers and other professionals approved by the County, which approvals shall not be unreasonably withheld.

(a) Development Team. Lessor intends to retain the following entities to design and construct the Improvements:

- (i) Architect: Baylis Brand Wagner
- (ii) General Contractor: J.R. Abbott Construction, Inc.

Lessor shall have the right to select other professionals as necessary or desirable for the design, permitting, and development of the Improvements, subject to County's approval, which approval shall not be unreasonably withheld.

(b) Design Process. Lessor shall enter into an agreement with the Architect in substantially the form attached as Exhibit I hereto, pursuant to which agreement the Architect shall prepare the Construction Drawings for the building shell, core and tenant improvements. County may participate in all design meetings with Lessor, Architect and other design professionals. County shall promptly review all Construction Drawings submitted to it for its approval and shall give Lessor written notice within ten Business Days (but shall use its best efforts to give such written notice within three Business Days) following its receipt of any Construction Drawings of its approval or disapproval thereof, specifying its reason for any such disapproval. County shall have the right to disapprove Construction Drawings that (i) are not consistent with the Plans, (ii) do not comply with Requirements of Law, (iii) do not comply with previous Construction Drawings 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 Improvements. If Lessor receives no objections or comments within such ten business day-period, then the submittals shall be deemed approved by County.

If County submits objections or comments in writing within the period set forth in the preceding paragraph, Lessor shall cause the Architect to make changes in the Construction Drawings consistent with County's reasonable objections or comments and shall resubmit the same in accordance with the foregoing schedule for County's further review. The process of resubmittal and review shall continue until the submittals have been approved by Lessor and County. The final Construction Drawings setting forth in detail the requirements for the construction of the Improvements which have been approved by County are called the Construction Documents. There shall be no material change in the Construction Documents except as set forth in Section 3.7 below.

(c) Factory Mutual Review. Lessor shall submit to Factory Mutual Engineering Association ("Factory Mutual"), for its review, all plans for design and construction of the Improvements. Plans shall be submitted at the [60% and 90%] design phases. All Factory Mutual recommendations shall be shared immediately with the County, and Lessor and the County shall work together with Factory Mutual reasonably to incorporate such recommendations into design of the Improvements. Lessor shall bear the expense of any increased costs resulting from incorporating the recommendations of Factory Mutual.

(d) Project Schedule. Lessor and County acknowledge and agree that the dates set forth in the initial project schedule attached hereto as Exhibit G (the "Project Schedule") and by this reference incorporated herein, and as revised from time to time in accordance with the terms hereof, shall serve as target dates for achieving the matters set forth therein. In order to ensure to the greatest extent practicable that the Improvements are designed, permitted and completed on or before the dates set forth in the Project Schedule, Lessor and County 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 Lessor and County. Lessor shall, following consultation with County, promptly and diligently respond to all questions and concerns raised by the Architect, and General Contractor, engineers or other consultants.

3.2. Permits. Lessor shall take all necessary action to obtain all permits and authorizations from any federal, state or local government or departments or subdivisions thereof having jurisdiction over the Leased Premises, including preparation of an environmental impact statement, if required, in order to permit construction of the Improvements in accordance with the Construction Documents (herein collectively, "Permits"). County and Lessor anticipate issuance of Permits by King County's Department of Development and Environmental Services ("DDES") and commencement

of construction of the Improvements within the Project Schedule. If Permits are not obtained by July 31, 1998, the consequences of such delay are described in Section 3.10(c) below.

3.3 Construction of Improvements. Lessor agrees, at its sole cost and expense, to complete construction of the Improvements in accordance with the Construction Documents and in a good and workmanlike manner. The Improvements shall be constructed entirely within the boundaries of the Land and shall in all respects comply with all Requirements of Law. If during the course of construction, the County shall determine that the Improvements are not proceeding in accordance with the Construction Documents, the County shall give notice in writing to Lessor specifying the particular deficiency or omission, and Lessor shall thereupon take, or cause to be taken, all steps necessary to correct the same. The failure to give such notice shall not be considered a waiver of any of the County's rights hereunder.

(a) Construction Contracts: All construction contracts shall provide for:

(i) Payment and performance bonds issued by a surety reasonably acceptable to County and with a Best's rating of A- or higher.

(ii) Subcontracting to Women and Minority Business Enterprises ("WMBE") to an extent acceptable to County. Lessor agrees with the spirit of King County's WMBE requirements and will present a plan for WMBE participation to King County's WMBE & Contract Compliance Division that will be acceptable to that division.

(iii) All contractors and subcontractors employed on the project shall pay the prevailing rate of wages as defined in Chapter 39.12 RCW.

(b) Progress Reports. Lessor shall submit written monthly progress reports to County including information on the General Contractor and the General Contractor's work, showing percentages of completion. Lessor shall maintain at the project site for County one record copy of all Construction Documents, all drawings, specifications, addenda, Change Orders and other modifications, in good order and marked currently to record changes and selections made during construction together with approved shop drawings, product data, samples and similar required submittals. Lessor shall maintain records, in duplicate of principal building layout lines, elevations of the bottom of the footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. All such records shall be made available to the Architect and County upon request and, upon completion of the Improvements, duplicate originals shall be delivered to County.

(c) Start-up Testing. With Lessee's Project Manager present, Lessor shall supervise the final testing and start-up of utilities, operational systems and equipment.

(d) Substantial Completion; Targeted Completion Date. Lessor agrees that Substantial Completion shall occur on or before the Targeted Completion Date. Substantial Completion shall be evidenced by (i) the issuance of the Certificate of Occupancy, (ii) the Architect's issuance of its "Certificate of Substantial Completion AIA Document G704," as modified for this project and attached to the Architect's contract, stating that construction of the Improvements is substantially completed in strict accordance with the Construction Documents, and (iii) County's receipt of evidence satisfactory to it that all real property taxes and assessments on the Leased Premises payable by Lessor that were due and owing have been paid. In issuing the Certificate of Occupancy it is understood and agreed that King County is acting in its governmental capacity and not in its capacity as lessee hereunder and that if the Improvements are completed in accordance with applicable law, King County is obligated promptly to issue the Certificate of Occupancy.

On the Substantial Completion Date, or as soon thereafter as reasonably practicable, Developer and the Lessee's Project Manager shall prepare a punch-list of items required for final completion of the Improvements, and Developer shall cause such items to be completed as soon as reasonably possible thereafter. Subject to the terms, covenants and conditions herein, upon completion of the Improvements Developer shall furnish the County with complete and detailed "as built" plans for the Improvements.

If Substantial Completion has not occurred on or prior to the Required Completion Date, this Lease shall terminate, unless the County in its sole discretion grants an extension and the conditions of Section 3.03(b) of the Trust Agreement are satisfied.

(e) If prior to final completion of the Improvements, a dispute arises between Lessor and County with respect to design or construction of the Improvements, the adequacy of any drawings or specifications, or the responsibility for any costs associated with Change Orders, the parties shall proceed in good faith to resolve such dispute as expeditiously as possible and shall cooperate so that the progress of design and construction of the Improvements is not delayed. If, however, the parties are unable to resolve the dispute, they agree to utilize the mediation process contained herein, which will be non-binding but a condition precedent to having said dispute decided in court by a judge or jury; provided, however, that the County and Lessor may agree in writing to waive this condition.

(i) Mediation Process. The County or Lessor, by delivering written notice to the other, may refer any dispute described above to J. Richard Manning, Esq., whose address is 925 Logan Building, 500 Union Street, Seattle,

WA 98101, whom Lessor and County have mutually designated to act as mediator to resolve such dispute. If Mr. Manning is unwilling or unable to serve as mediator, the County and Lessor shall promptly designate another mutually acceptable mediator. (Mr. Manning and any such successor mediator are hereinafter referred to as "Mediator").

(ii) Consideration of Disputes or Claims. Upon receipt by the Mediator of written notice of a dispute, either from County or Lessor, the Mediator shall convene a hearing to review and consider the dispute. Both County and Lessor shall be given the opportunity to present their evidence at this hearing. Both the County and Lessor are encouraged to provide exhibits, calculations, and other pertinent material to the Mediator prior to the hearing, for review. All such material shall be given in the same form and content to the other party to this Lease.

(iii) Construction Site Visit. The Mediator may visit the site of the Improvements to keep abreast of construction activities and to develop familiarity with the work in progress. The frequency, exact time, and duration of these visits shall be as mutually agreed upon among the Mediator, the County and Lessor, but only as necessary to address a dispute. In the case of an alleged changed condition or construction problem, it will be advantageous, but not absolutely necessary for the Mediator to view such conditions. Photographs and descriptions of these conditions, by both parties, will suffice, if a site visit by the Mediator would cause delay to the Improvements.

(iv) Procedures. Upon the first referral to the Mediator of a dispute hereunder, the Mediator shall, with the agreement of the parties, establish procedures for the conduct of any hearings for consideration of disputes and claims. The conduct of the Mediator's business shall, in general, be based on this Lease and if applicable, the Plans and Construction Documents.

It is expressly understood that the Mediator is to act impartially and independently in the consideration of facts and conditions surrounding any dispute presented by County and Lessor, and that the 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 recommendations shall be furnished in writing to the parties.

(v) County Responsibility. County shall furnish the Mediator one copy of all documents it might have, other than those furnished by the Lessor, which are pertinent to the performance of the Mediator.

(vi) Lessor Responsibility. Lessor shall furnish the Mediator one copy of all Construction Documents including all applicable contracts, interpretative

geotechnical report, progress schedule and updates, monthly progress reports, and other documents pertinent to the performance of the Lease and necessary to the Mediator's work.

(vii) Coordination. The parties will coordinate to effectively assist the Mediator's operation.

(viii) Payment. The fees charged by the Mediator shall be shared equally by the parties. Payments shall be full compensation for work performed, services rendered, and for all materials, supplies, travel, office assistance and support and incidentals necessary to serve. Payment for services rendered by the Mediator and for the Mediator's expenses shall be at the rate or rates established by the Mediator, which in any event shall not exceed the usual and customary rate or rates prevailing in King County, Washington, for mediation services of the sort described herein.

The Mediator may submit invoices for payment for work completed not more often than once per month during the progress of the work. Such invoices shall be in format approved by both parties, and accompanied by a general description of activities performed during that period. The value of work accomplished for payment shall be established from the billing rate and hours expended by the Mediator. The invoiced amount shall be divided in half and clearly stated. A copy is to be sent to County and Lessor for payment. Satisfactorily submitted invoices shall be paid within 30 days.

(f) Notice of Substantial Completion. Lessor shall give notice in writing to County at least thirty (30) days prior to the date upon which Lessor anticipates that Substantial Completion will occur. During the fifteen-day period after the delivery of the estimated completion notice, Lessor, Architect, General Contractor and County shall meet on one or more occasions, if necessary, and tour to inspect and review the Improvements to determine whether the Improvements are substantially complete. The parties shall prepare the punch list to be completed. The completion of the punch list shall not be required for Substantial Completion.

(g) Completion of Punch List Items. Following Substantial Completion, Developer shall cause all punch list items to be completed promptly in accordance with the Construction Documents.

3.4. Bonding and Liens. Lessor shall pay and discharge any and all mechanics', materialmen's or other liens against the Leased Premises claimed in respect to labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or upon the request of Lessor. Notice is hereby given that the County shall not be liable for any work performed or to be performed on the Leased Premises, for Lessor, or for any materials furnished or to be furnished to the Leased Premises for Lessor or any subtenant, and that no mechanic's or other lien for such work or materials shall attach to the leasehold

interest of County. The County shall have the right to enter upon the Leased Premises at any time for the purpose of posting such notice throughout the same and such notice shall also be included in any memorandum of lease recorded.

3.5. Interim Inspections. During the course of construction of the Improvements, the Lessee's Project Manager may from time to time inspect the progress of construction and, no more often than once each month, advise Lessor, the County and any lender providing construction financing for the Improvements in writing of any failure of the construction to conform to the Construction Documents, or indicate, if true, that the construction to the date of such inspection is in substantial conformity to the Construction Documents. Any such advice or indication given by the Lessee's Project Manager shall be given to the best of its knowledge, information and belief. It is understood and agreed that County's rights to inspect the progress of the Improvements are for the sole purpose of protecting its interest as tenant, and such inspections and any reports made in connection therewith shall be subject to the disclaimer set forth in Section 3.8 hereof.

3.6. Standards for Inspection and Acceptance of Improvements. The Lessee's Project Manager's periodic inspections pursuant to Section 3.5 hereof, and the County's approval or rejection of the Improvements shall be based on the substantial conformity or nonconformity of the work with the Construction Documents in accordance with construction industry standards.

3.7. Change Orders.

(a) Approval of Change Orders. For purposes of this provision, a "Lessor-Initiated Change Order" shall be a change in the Construction Documents requested by Lessor to address value engineering opportunities or unforeseen conditions in connection with the construction of the Improvements. A "County-Initiated Change Order" shall be a change in the Construction Documents requested by the County to add or delete features and facilities to the Construction Documents. A Change Order can increase or decrease the costs to construct the Improvements.

Except as provided herein, all Change Orders shall require the mutual approval of Lessor and the County. However, the County shall not unreasonably withhold or delay its consent to a Lessor-Initiated Change Order, provided that the proposed Change Order (i) is minor in nature and does not affect overall building appearance, safety or mechanical systems and operations, and (ii) will not result in an extension of the Targeted Completion Date. Lessor and County anticipate that there will be field orders and Change Orders that will result in changes to the scope of work. Lessor shall use its reasonable efforts to apprise County of proposed changes in the work and its recommendations regarding them prior to any action being taken. Lessor and County anticipate that it may not always be possible for Lessor to receive County's prior approval to these changes in a timely manner.

Therefore, field orders and Change Orders may be approved by the Lessor, without prior County approval, but only if the changes authorized by these field orders and Change Orders do not have the effect of extending the Targeted Completion Date or materially altering the work. As soon as practical, Lessor shall provide County with all field orders and Change Orders approved by Lessor. For the purposes of this section a material alteration would reduce the intended quality of the Improvements, result in an increase of County's operational costs over time, or result in a substitution of any of the systems in the Improvements. In the case of either a material alteration or a change that would result in failure to achieve Substantial Completion by the Targeted Completion Date, prior written approval by the County of the proposed change must be received. All Lessor-Initiated Change Orders shall be at Lessor's sole cost and expense.

With respect to County-Initiated Change Orders, Lessor agrees not to unreasonably withhold or delay its consent to such Change Orders, provided (i) the consent of Lessor's construction lender is obtained in accordance with the construction loans, (ii) if required, the consent of the bonding company issuing the surety or completion bond is obtained, (iii) the parties describe the maximum anticipated financial impact in a writing mutually signed, and (iv) the Targeted Completion Date is extended, if necessary, to reflect the time required to implement the Change Order.

(b) Payment of County-Initiated Change Orders. Subject to offset against the County Contingency Allowance, all costs and expenses of County-Initiated Orders shall be the responsibility of the County. Costs and expenses of County-Initiated Change Orders shall include any costs and expenses of the Architect and other consultants to prepare and review the Change Order, the costs and expenses incurred by Lessor to obtain, revise or amend Permits for the Change Order, the costs and expenses to construct the Change Order, any other costs or expenses chargeable by the contractor under the construction contract in connection with the Change Order, and if the Change Order results in an extension of the time period for construction or an increase in the amounts of funds that Lessor must borrow, any additional construction interest incurred by Lessor under the construction loan for the construction of the Improvements. In this respect, the costs and expenses of a County-Initiated Change Order shall be broadly interpreted to include all costs and expenses arising with respect to or as a result of a County-Initiated Change Order.

Lessor hereby establishes for the benefit of the County a County Contingency Allowance in the amount set forth on the Project Budget for County-Initiated Change Orders. The County may apply against this County Contingency Allowance the costs and expenses of County-Initiated Change Orders, up to the total amount of the County Contingency Allowance. The County Contingency Allowance shall also be increased by any net savings arising from a County-Initiated Change Order which reduces the costs of construction of the Improvements. The County shall be responsible for the costs and

expenses of County-Initiated Change Orders only if the aggregate amount of such Change Orders exceeds the County Contingency Allowance, and such amount shall constitute Additional Rent hereunder payable in full upon Substantial Completion.

The County hereby authorizes Lessee's Project Manager to approve all Change Orders on behalf of the County.

(c) Resolving Disputes Regarding Change Orders. Lessor and County agree to follow the independent resolution process set forth in Section 3.3(e) hereof to resolve disputes regarding the approval, cost or any other issue raised by any Change Order or by the cumulative effects of any Change Orders in an economic and time efficient manner so that the construction schedule for the Improvements is not adversely impacted and the Improvements as constructed will satisfy the requirements of this Lease.

3.8. Disclaimer. Notwithstanding any other provision of this Lease to the contrary, the County is under no obligation to design, construct or supervise construction of the Improvements. It is understood and agreed that County's rights to inspect the Improvements under this Lease are for the sole purpose of protecting its interest as tenant. The County's approval of any plans and specifications, construction agreements, or service contracts for the Improvements shall not be construed by the County as a guaranty of sufficiency of the work. The County's right of inspection as provided in this Lease shall not constitute any representation or warranty, express or implied, or any obligation of the County to insure that work or materials are in compliance with the plans and specifications or any building requirements imposed by a governmental agency. The County is under no obligation or duty and disclaims all responsibility to pay for the cost of construction of the Improvements. County is not responsible to the subcontractors under the General Contract or any other third parties for any purpose whatsoever.

3.9. Warranties.

(a) Warranties to be Assigned to County. Upon the assignment of this Lease to the Trustee in accordance with Section 4.05 of the Trust Agreement, Lessor agrees to assign to the County all rights under warranties, guarantees and/or bonds relating to the repair, maintenance and/or condition of the Leased Premises, and Lessor agrees to cooperate with the County in order to obtain for County the benefit of any such warranties, guarantees and/or bonds. Lessor shall give to the County copies of all plans, shop drawings and specifications related thereto.

(b) General Contract Warranty. The General Contract shall provide for a warranty of materials and workmanship for a period of one year with respect to each major component of the work following Substantial Completion. To evaluate the cost benefits of receiving a two-year warranty on some or all of the major components of the

Improvements, Lessor, at County's request, will include as a bid item alternate a two year warranty on appropriate subcontracts. At County's request and expense, Lessor shall negotiate with contractors and/or suppliers for extended warranties and/or maintenance contracts.

(c) Correction of Work. Lessor shall promptly correct or cause to be corrected work reasonably rejected by County or known by Lessor to be defective or failing to conform to the Construction Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed, and shall correct or caused to be corrected work found to be defective or non-conforming within the Warranty Period or within such longer period provided by any applicable special warranty in the Construction Documents.

3.10. Delays.

(a) Unavoidable Delays a Result of Force Majeure Prior to the Targeted Completion Date. The Targeted Completion Date shall be extended for delays resulting from force majeure, provided that:

- (i) Lessor gives notice thereof to the County;
- (ii) the County consents to such extension, which consent shall not be unreasonably withheld;
- (iii) extensions of the Targeted Completion Date due to such delay(s) shall be limited, in the aggregate, to sixty (60) days; and
- (iv) extensions of the Targeted Completion Date due to such delays(s) shall not extend beyond the Required Completion Date.

The term "force majeure" as used herein means, without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the State of Washington or their respective departments, agencies, or officials, or any civil or military authority; insurrections; riots; landslides; volcanoes; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of the Lessor and not resulting from its negligence. The Lessor agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the Lessor from carrying out its agreements hereunder; provided, however that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Lessor, and the Lessor shall not be required to make settlement of strikes, lockouts and other industrial

disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Lessor unfavorable to the Lessor.

(b) County-Initiated Change Orders. Pursuant to the provisions of Section 3.7(a) above, the Targeted Completion Date shall be extended, if necessary, to reflect the time required to implement a County-Initiated Change Order. Extensions of the Targeted Completion Date due to any such delay shall not extend beyond the Required Completion Date.

(c) Delays in Obtaining a Building Permit. The parties recognize that the Targeted Completion Date can be achieved within the Project Budget only if DDES issues the building permit by July 31, 1998. Failure to obtain the building permit by July 31, 1998, may result in a weather-related financial impact on the Project Budget in addition to extra interest expenses. If a building permit is issued by DDES after July 31, 1998, then the Targeted Completion Date shall be extended by the number of days elapsing from August 1, 1998 through the date that DDES issues the building permit. Extensions of the Targeted Completion Date due to any such delay shall not extend beyond the Required Completion Date.

Lessor hereby establishes for the benefit of the County a Permit Contingency Allowance in the amount specified in the Project Budget for increased costs resulting from any delay in obtaining a building permit beyond July 31, 1998. The County may apply against this Permit Contingency Allowance the weather-related site costs and increased interest expenses resulting from any delay in obtaining a building permit beyond July 31, 1998, up to the total amount of the Permit Contingency Allowance.

(d) Holdover Consequence in Event of Delays. In the event that Substantial Completion of the Improvements fails to occur on or before the Targeted Completion Date, Lessor acknowledges that the County will incur certain costs for which Lessor shall be liable ("Holdover Costs"). In any month, such "Holdover Costs" shall be (i) the sum of (x) any "holdover" premium or similar costs payable by the County in that month as a result of the County's inability to timely vacate premises it then occupies because of the unavailability of the Improvements for occupancy, and (y) all actual out-of-pocket expenses incurred by the County in that month as a direct result of such delay including relocation costs if the County is forced to move personnel to temporary premises because of the unavailability of the Improvements for occupancy, less (ii) 1/6 of the amount of the Lease Payment due and payable on the next Lease Payment Date. County shall use its best efforts to mitigate any Holdover Costs. Lessor's obligation to pay or cause the payment of Holdover Costs terminates upon the earlier of the date of Substantial Completion of the Improvements or termination of this Lease.

3.11. Developer's Representations. Upon Substantial Completion, the Developer represents and warrants, as follows:

(a) The Improvements have been completed in substantial accordance with the Construction Documents (as revised by Change Orders made in accordance with Section 3.7 hereof) and are, and at all times during the Warranty Period shall be, free from defects in workmanship and materials in connection with the construction thereof.

(b) Developer has no knowledge of any structural defects, latent defects or building systems defects within the Improvements.

(c) The Improvements have been constructed in accordance with all Requirements of Law, all Permits and all insurance laws, regulations and requirements in effect at the time of construction of the Improvements.

(d) The Improvements are served by water, storm and sanitary sewage facilities, telephone, electricity, fire protection and other required public utilities adequate to serve the Improvements at the time of Substantial Completion.

(e) The General Contractor, Architect, and all contractors, suppliers, materialmen and consultants have been paid in full for work related to construction of the Improvements and there are no liens, encumbrances or other defects affecting title to the Land or Improvements that have been or will be filed against the Land or the Improvements with respect thereto, and title to the Property is subject only to (i) the exceptions permitted by the County, (ii) easements and other restrictions imposed or required to be imposed in connection with obtaining Permits, (iii) utility and similar easements imposed in connection with the construction of the Improvements that do not materially interfere with the use of the Improvements, (iv) easements and restrictions imposed or created with the approval of the County, and (v) this Lease.

(f) Developer is not aware of any physical defect in the Land or the Improvements that would prevent County from using the Improvements for courthouse purposes pursuant to this Lease.

(g) The use and operation of the Improvements for courthouse purposes is permitted.

(h) To the best of Developer's knowledge and except as disclosed in writing there are no condemnation, environmental, zoning or other land use regulation proceedings currently instituted that could detrimentally affect the use and operation of the Improvements for their intended purpose. If during the term of this Lease any such

proceedings have been instituted, Developer shall have used its best efforts and due diligence to resolve them prior to Substantial Completion.

(i) Developer has provided County with prompt notice of any special assessment proceedings affecting the Land.

(j) There are no soils conditions adversely affecting the Land. The Improvements do not encroach onto adjoining land or onto any easements and there are no encroachments of improvements from adjoining land onto the Land. The location of the Improvements does not violate any applicable setback requirements. The Land is not located in a flood zone.

(k) Except as disclosed to County in writing, there is no litigation pending, or to the best knowledge of Developer, threatened, with respect to the Improvements for matters undertaken by Developer under this Lease.

(l) To the best of Developer's knowledge, there are no Hazardous Substances located in, on, under or affecting the Land or the Improvements or any Hazardous Substances incorporated into the structure of the Improvements.

(m) Prior to Substantial Completion, Developer has removed and properly disposed of all known Hazardous Substances from the Improvements and if applicable, received a no further action letter from the appropriate governmental agency.

(n) To the best of Developer's knowledge, after due and diligent inquiry, all Permits necessary for the construction, use and occupancy of the Improvements have been obtained and are in full force and effect.

Each of the foregoing warranties with respect to the Improvements shall expire and be of no further force or effect, unless County shall have made a claim based upon an alleged breach of such warranties by Developer on or before the expiration of the Warranty Period; however such expiration shall not otherwise limit County's rights and remedies hereunder. In the event County alleges a breach of any of the foregoing warranties, County shall give Developer written notice of any such allegation together with a detailed explanation of the alleged breach ("County Warranty Claim"). Developer shall, within thirty (30) days of receipt of a County Warranty Claim, proceed to commence to cure the circumstances specified in County Warranty Claim, or provide County with written notice of Developer's dispute of County Warranty Claim. If Developer commences a cure or correction of the matter alleged in County Warranty Claim, Developer shall proceed reasonably diligently and promptly to complete such cure or correction, and the Warranty Period for the particular matter shall be extended for the period necessary to complete cure or correction. None of the foregoing warranties shall be deemed to modify the definition

of Substantial Completion hereunder, nor shall any County Warranty Claim affect the County's payment obligations hereunder.

Developer shall warrant neither artist-made materials included in the Improvements nor those recycled construction products that County has directed Developer to include in the Improvements over Developer's prior written objections.

ARTICLE IV

LEASE TERM

This Lease is effective upon its execution by Lessor and County; provided, however, that the obligation of the County to make Lease Payments hereunder shall not commence unless and until the Substantial Completion Date. This Lease shall terminate on December 1, 2019 or when all Lease Payments have been paid, whichever is earlier, unless terminated prior thereto in accordance with the provisions of Section 3.3(d), Section 12.1, Section 13.1 or Section 13.2 of this Lease.

ARTICLE V

LEASE PAYMENTS

5.1. Lease Payments.

(a) Lease Payment Obligation to Arise Only Upon Substantial Completion Date. The obligation of the County to make Lease Payments hereunder shall not commence until the Substantial Completion Date. Lease Payments due and payable prior to such date shall be paid solely from Prepaid Rent.

(b) Principal Component of Lease Payments. The principal component of the Lease Payments is reflected in Exhibit B-1 as the total principal amount of Lease Payments. The parties further agree to the amortization schedules set forth in the attached Exhibits B-1 and B-2.

(c) Interest Component of Lease Payments. The interest component of Lease Payments, representing interest on the principal component of Lease Payments set forth in Exhibit B-1, has been calculated based on interest rates established in the sale of certain certificates of participation in this Lease in accordance with the Trust Agreement.

(d) Pledge to Pay Lease Payments. From and after the Substantial Completion Date, the County shall make all Lease Payments, as determined in accordance with this Section 5.1, at such times and in such amounts as set forth in Exhibit B-2;

provided, however, that the County's obligation to make any such Lease Payment may be satisfied, in whole or in part, from funds on deposit and available for such purpose in the Lease Payment Fund (as such term is defined in the Trust Agreement). The obligation of the County to make the Lease Payments constitutes a limited tax general obligation of the County. The County hereby pledges to include in its budget and levy taxes, within and as a part of the tax levy permitted to counties without a vote of the people, upon all property within the County subject to taxation, in an amount sufficient, together with all other money legally available therefor, to pay the Lease Payments as the same shall become due. The full faith, credit and resources of the County are irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of the Lease Payments.

5.2. Additional Rent. On or after the Substantial Completion Date County shall be liable for Additional Rent for costs not otherwise provided for by the Lease Payments calculated pursuant to Section 5.1 above. Such costs may include but are not limited to, amounts payable in connection with County-Initiated Change Orders in accordance with Section 3.7(b) hereof, trustee's fees and expenses, taxes and utility charges for which the County is liable pursuant to Section 7.3 hereof. Due to the contingent nature of such Additional Rent, it shall not constitute debt of the County for purposes of debt limitations established by RCW 39.36.020. The County shall have no obligation to pay Additional Rent prior to the Substantial Completion Date.

5.3. Defeasance. In the event that money and/or "Government Obligations," as such obligations are now or may hereafter be defined in Ch. 39.53 RCW, maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to pay or prepay all Lease Payments and Additional Rent due under this Lease in accordance with the terms of this Lease, are irrevocably set aside and pledged in a special account to effect such payment or prepayment, then no further payments need be made of any Lease Payments under this Lease and the Lessor shall not be entitled to any lien, benefit or security in the Leased Premises, except the right to receive the funds so set aside and pledged, and Lessor shall have no further obligation to the County hereunder, except under Article XII hereof, if applicable.

ARTICLE VI

USE

6.1. Use of Premises. From and after the Substantial Completion Date, the County may use the Leased Premises for the occupancy, use, maintenance and operation of a courthouse and all uses incidental thereto, including but not limited to, any other use permitted by law or by the Certificate of Occupancy, and consistent with the provisions of Section 17.2 hereof and the tax covenants set forth in Section 19.1 hereof.

6.2. Quiet Enjoyment. Upon payment by County of the Lease Payments herein provided, and upon the observance and performance of the covenants, terms and conditions on the County's part to be observed and performed, Lessor covenants that County shall peaceably and quietly hold and enjoy the Leased Premises for the term hereby demised without hindrance or interruption by Lessor or any person or persons lawfully or equitably claiming by, through or under the Lessor.

6.3. Compliance with Laws. The County shall comply with all municipal, county, state and federal laws, rules, regulations and ordinances applicable to the Leased Premises and the use or occupancy thereof.

ARTICLE VII

ABSOLUTE NET LEASE

7.1. Absolute Net Lease. This Lease is an "absolute net lease," and the County's obligations to make Lease Payments as provided in Section 5.1 of this Lease, to pay Additional Rent as provided in Section 5.2 of this Lease, and to perform and observe all other covenants and agreements of the County contained herein shall be absolute and unconditional, and the failure by the County to make such Lease Payments and to pay Additional Rent at the times and in the amounts as provided in Sections 5.1 and 5.2 hereof shall constitute an Event of Default under this Lease. All Lease Payments shall be made without notice or demand and without setoff, counterclaim, abatement, deduction or defense whatsoever. Following Substantial Completion, notwithstanding the Lessor's obligation to complete punch-list items, the County shall assume the sole responsibility for the condition, use, operation, maintenance, repair and management of the Leased Premises, and County will, at its cost and expense, keep and maintain the Leased Premises in good repair and condition and in compliance with all applicable laws, rules, regulations, statutes, and ordinances, and will make all structural and nonstructural, and ordinary and extraordinary changes, repairs and replacements which may be required to be made upon or in connection with the Leased Premises in order to keep the same in good repair and condition, reasonable wear and tear and ordinary use excepted; provided, however, that nothing herein shall be construed to release the Developer from completion of the punch-list items, and if the Developer should fail to complete the punch-list items within a reasonable time, the County may institute such legal action against the Developer as the County may deem necessary to compel the performance of such obligation or to recover damages therefor. Notwithstanding anything in this Lease to the contrary, County shall have no obligations to indemnify Lessor for any claims, loss, liabilities or damages arising from the negligent or willful misconduct of Lessor, its employees or agents.

7.2. Lease Nonterminable. Except as otherwise expressly provided in Section 3.3(d), Section 12.1, Section 13.1, and Section 13.2 hereof, this Lease shall not

terminate, nor shall County have any right to terminate this Lease or to be released or discharged from any obligations or liabilities hereunder for any reason, including, without limitation, damage or destruction of the Improvements, it being the intention of the parties hereto that all Lease Payments payable by County hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of Section 3.3(d), Section 12.1, Section 13.1 or Section 13.2 of this Lease. In that connection, County hereby waives, to the extent permitted by applicable law, any and all rights that it may now have or that may at any time hereafter be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease except in accordance with the express terms hereof and agrees that if, for any reason whatsoever, this Lease shall be terminated in whole or in part by operation of law or otherwise except as specifically provided in Section 3.3(d), Section 12.1, Section 13.1 or Section 13.2 of this Lease, County will nonetheless pay to Lessor (or to whosoever shall be entitled thereto as expressly provided herein) an amount equal to each Lease Payment at the time such payment would have become due and payable in accordance with the terms hereof had such termination not occurred.

7.3. Trustee Fees, Taxes and Utility Charges. The County shall pay as Additional Rent all charges for utility, communication and other services rendered to or used on or about the Leased Premises assessed and payable from and after the Substantial Completion Date. County also covenants to and agrees to pay all trustee fees and expenses (as described in Section 6.03 of the Trust Agreement) payable after the Substantial Completion Date, to pay all taxes and assessments levied upon the Leased Premises that are payable after the Substantial Completion Date and to pay a prorated share of taxes and assessments paid by Lessor prior to the Substantial Completion Date and applicable to any period after the Substantial Completion Date; provided, however, that if any such taxes or assessments may be paid in installments without penalty, the County shall have the right to pay any such taxes or assessments in installments, and provided further that the County shall also be liable for any property taxes assessed with respect to the Leased Premises after the Substantial Completion Date.

7.4. Compliance with Laws. The County shall at all times from and after the Substantial Completion Date, at the County's own cost and expense, perform and comply with all laws, rules, orders, ordinances, regulations and requirements now or hereafter enacted or promulgated (including, without limitation, all zoning, pollution and environmental requirements, hereinafter referred to as "Environmental Requirements"), of every government and municipality having jurisdiction over the Leased Premises and of any agency thereof, relating to the Leased Premises, or the Improvements thereon, or the facilities or equipment thereon or therein, or the streets, sidewalks, curbs and gutters adjoining the Leased Premises, or the use or operation of the Leased Premises, whether or not such laws, rules, orders, ordinances, regulations or requirements so involved shall necessitate structural changes, improvements, interference with use and enjoyment of the

Leased Premises, replacements or repairs, and County shall so perform and comply, whether or not such laws, rules, orders, ordinances, regulations or requirements shall now exist or shall hereafter be enacted or promulgated, and whether or not such laws, rules, orders, ordinances, regulations or requirements can be said to be within the present contemplation of the parties hereto.

7.5. County's Right to Contest. The County shall have the right to contest, by appropriate legal proceedings, any tax, charge, levy, assessment, lien or other encumbrance, and/or any law, rule, order, ordinance, regulation or other governmental requirement affecting the Leased Premises, and to postpone payment of or compliance with the same during the pendency of such contest, provided that: (i) the County shall not postpone the payment of any such tax, charge, levy, assessment, lien or other encumbrance for such length of time as shall permit the Leased Premises, or any lien thereon created by such item being contested, to be sold by any federal, state, county or municipal authority for the non-payment thereof; (ii) County shall not postpone compliance with any such law, rule, order, ordinance, regulation or other governmental requirement if Lessor will thereby be subject to criminal prosecution, or if any municipal or other governmental authority shall commence a process according to applicable law to carry out any act to comply with the same or to foreclose or sell any lien affecting all or part of the Leased Premises which shall have arisen by reason of such postponement or failure of compliance; (iii) County shall proceed diligently and in good faith to resolve such contest; (iv) such contest shall be in compliance with all laws, rules, orders, ordinances, regulations or other governmental requirements; and (v) County shall not postpone compliance with any such laws, rules, orders, ordinances, regulations or other governmental requirements if the same shall invalidate any insurance required by this Lease.

ARTICLE VIII

ALTERATIONS BY COUNTY

County may, at its own cost and expense, make additions or improvements to or alterations of the Improvements now or hereafter erected on the Land (provided such work when completed does not impair the structural integrity of the Improvements), or construct new buildings and improvements on any portion of the Land that is not then improved with a building or improvement (all of the foregoing are collectively referred to as "Additional Improvements"). Notwithstanding the foregoing, County shall not make any Additional Improvements in violation of the terms of any restriction, easement, condition or covenant or other matter affecting title to the Leased Premises. Any such Additional Improvements shall be constructed in a good and workmanlike manner and in compliance with all applicable laws, rules, regulations, ordinances and covenants applicable to the Leased Premises.

ARTICLE IX

INDEMNIFICATION AND PUBLIC LIABILITY INSURANCE

9.1. Indemnification by County. To the fullest extent permitted by law and from and after the Substantial Completion Date or the date the County takes possession of the Leased Premises, whichever is earlier, the County covenants to and does hereby agree to indemnify, defend and hold harmless Lessor from and against all claims and all costs, expenses and liabilities (including reasonable attorneys' fees) incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of the death of or any accident, injury, loss or damage whatsoever caused to any natural person, or to the property of any person, as shall occur in or about the Leased Premises; provided, however, that Lessor shall not be entitled to such indemnification to the extent of damage caused to Lessor or any third person or entity or property by reason of the negligence or intentional misconduct of Lessor or Lessor's concurrent negligence. Lessor shall give County prompt notice of any suit or proceeding entitling the Lessor to indemnification pursuant to this Section 9.1, and County shall thereafter defend Lessor in said suit or proceeding at its sole cost and expense. In addition, from and after the Substantial Completion Date or on the day the County takes possession of the Leased Premises, whichever is earlier, the County hereby agrees to indemnify, defend, and hold harmless the Lessor from and against any and all claims, damages, and expense incurred by the Lessor with respect to any action (or failure to act) in the performance and administration of its duties under this Lease, except to the extent that any such claims, damages or expense results from the Lessor's negligence or willful misconduct.

9.2. County's Liability Insurance. From and after the Substantial Completion Date or the date the County takes possession of the Leased Premises, whichever is earlier, the County shall maintain, or cause to be maintained, in full force and effect, comprehensive public general liability insurance covering the Leased Premises in such amounts as may be established by the County from time to time. The County may provide all or a portion of any insurance by self insurance. Such insurance shall be applied toward extinguishment or satisfaction of County's liability under Section 9.1 of this Lease. It is understood that this insurance covers any and all liability of the County and its officers, employees and agents, and the procurement thereof does not constitute a waiver of the defense of governmental immunity. The Lessor acknowledges, agrees and understands that the County is self-insured for all of its liability exposures. The County agrees, at its own expense, to maintain through its self-insurance program, coverage for its liability exposures for the duration of this Lease. The County agrees to provide the Lessor with at least 30 days' prior written notice of any change in the County's self-insured status and will provide Lessor annually, on the anniversary of the Lease Transfer Date, with a certificate of self-insurance as adequate proof of insurance.

ARTICLE X

FIRE AND EXTENDED COVERAGE INSURANCE

From and after the Substantial Completion Date or the date the County takes possession of the Leased Premises, whichever is earlier, the County shall maintain, or cause to be maintained, in full force and effect, fire and extended coverage insurance covering the Improvements in such amounts and covering such risks as the County may require from time to time. Such insurance shall be carried with financially responsible insurance companies authorized to do business in the State of Washington, and may be carried under a policy or policies covering other property owned or controlled by County, or the County may be self-insured. The County shall furnish to Lessor, on or before the effective date of any such policy or self insurance, and annually thereafter certificates of insurance evidencing that the insurance required by this Article X are in force and effect on the specified date and that the premiums therefor have been paid. County agrees that such policies shall contain a provision that the same may not be cancelled without at least thirty (30) days' prior written notice being given by the insurer to Lessor. The amount of insurance maintained by County in compliance with this Article X shall be in such amounts as may be established by the County from time to time. The proceeds from any such insurance shall be paid to the County.

ARTICLE XI

LIENS

The County shall not create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Premises. The County shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The County shall reimburse the Lessor for any expense incurred by Lessor (including reasonable attorneys' fees) to discharge or remove any such County-incurred mortgage, pledge, lien, charge, encumbrance or claim.

ARTICLE XII

OPTIONS TO PREPAY LEASE AND PURCHASE LEASED PREMISES

12.1. Option to Purchase. Provided that the County is not in default under this Lease (including payment of any Additional Rent then due and owing), the County shall have the option to purchase the Leased Premises and thereby terminate this Lease at any time on or after June 1, 2008. The purchase price of the Leased Premises shall be an amount equal to the total outstanding principal amount of Lease Payments set forth on

Exhibit B-1, plus interest accrued thereon to the date of prepayment at the applicable rate(s) set forth on Exhibit B-1, plus an option exercise fee of one dollar (\$1.00).

12.2. Exercise of Option. The County shall give Lessor not less than 45 days' prior written notice of its election to exercise its option to purchase under Section 12.1 hereof in the form set forth in Exhibit C attached hereto. The purchase price 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 the County and Lessor may mutually agree).

12.3. Conveyance of Leased Premises. On the payment date specified in the notice of election to exercise purchase option, or such other date as the County and Lessor may mutually agree, Lessor shall convey the Leased Premises to the County by quitclaim deed, and this Lease shall terminate. Lessor shall not be required to make any representations regarding the conditions of the Leased Premises and the County agrees to accept the Leased Premises in an "as is" condition. Nothing herein shall be construed to require the County to exercise the purchase option herein granted.

12.4. Option to Partially Prepay Lease. The County shall have the option to partially prepay the principal component of the Lease Payments, in \$5,000 increments, in inverse order of maturities (as represented by the principal portion of the Lease Payments due each year as set forth in Exhibits B-1 and B-2). Notice of such intent to prepay shall be given to the Lessor in writing not less than 45 days in advance of the intended prepayment date. Such prepayment may be at any time on or after June 1, 2008. The notice of partial prepayment shall be substantially in the form set forth on Exhibit D attached hereto. By 10:00 a.m. Seattle time on the date set for such prepayment, the County shall pay to Lessor in cash or same-day available funds, an amount equal to the principal portion of Lease Payments 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 Lease Payment Date for the last outstanding Lease Payment not prepaid.

12.5. Option Not Exercised. If the County does not exercise the purchase option hereunder upon termination of this Lease, then, after giving the County ninety (90) days' written notice, Lessor may sell the Leased Premises to any third party. The proceeds from such sale, less the Lessor's costs in connection with the sale, shall be distributed to the County.

ARTICLE XIII

EMINENT DOMAIN

13.1. Eminent Domain Proceedings Prior to Substantial Completion Date. Prior to the Substantial Completion Date, the following provisions shall apply with respect to eminent domain proceedings:

(a) Total Taking. If all of the Leased Premises are taken by eminent domain, this Lease shall terminate as of the date Lessor, is required to vacate the Leased Premises, and the County shall have no further obligation hereunder.

(b) Partial Taking. If a taking of any part of the Leased Premises by eminent domain renders the Leased Premises unsuitable, in the judgment of County, for the construction of the Improvements, or following construction of the Improvements for the use and occupancy of same, this Lease may, at the option of County, be terminated as of the date when Lessor, is required to vacate the portion of the Leased Premises so taken, by written notice given to Lessor not more than thirty (30) days after Lessor or receives notice of the taking. If the County does not terminate this Lease hereunder, the Improvements shall be reduced to the extent necessary to accommodate the partial taking.

(c) Awards. In any proceeding whereby all or part of the Leased Premises are taken by eminent domain, whether or not County elects to terminate this Lease, all of the condemnation award shall be paid to Lessor.

13.2. Eminent Domain Proceedings Following Substantial Completion Date. From and after the Substantial Completion Date, the following provisions shall apply with respect to eminent domain proceedings:

(a) Total Taking. If all of the Leased Premises are taken by eminent domain, then the County shall defease its Lease Payment obligations hereunder in accordance with the provisions of Section 5.3 of this Lease, and the parties shall have no further obligations to each other, and this Lease shall terminate.

(b) Partial Taking. If there is a partial taking of the Leased Premises by eminent domain, this Lease shall not terminate and there shall be no abatement of Lease Payments otherwise payable by the County hereunder and the County may either retain any condemnation proceeds or apply them to replace all or any portion of the Leased Premises that shall have been taken.

(c) Awards. In any proceeding whereby all or part of the Leased Premises are taken by eminent domain, all of the condemnation award shall be paid to the County. Lessor shall have no claim therein or thereto. The County shall apply such portion of the condemnation award as may be necessary to defease its Lease Payment obligations (in accordance with Section 13.2(a) hereof) or to make Lease Payments as and to the extent they become due, and may apply any balance of such award to replace all or

any portion of the Leased Premises that may have been taken or for other County purposes. Upon any condemnation, there shall be no abatement of Lease Payments or Additional Rent otherwise payable by County under this Lease.

13.3. Insufficiency of Condemnation Award. If the condemnation award is insufficient to pay in full the cost of any Lease Payments or any repair, restoration, modification or improvement of any component of the Leased Premises, the County may, subject to appropriation of sufficient funds, complete the work and pay any cost in excess of the amount of the condemnation award. The County shall not be entitled to any reimbursement therefor from the Lessor, nor shall the County be entitled to any abatement of any Lease Payments or Additional Rent otherwise payable hereunder.

13.4. Cooperation of the Lessor. The Lessor shall cooperate fully with the County and at the expense of the County in filing any proof of loss with respect to any insurance policy covering the events described in Articles X and XIV hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Leased Premises or any part thereof and, to the extent it may lawfully do so, subject to confirmation of indemnity pursuant to Section 9.1 hereof in connection with such litigation, authorizes the County to litigate in any proceeding resulting therefrom in the name of and on behalf of the Lessor. In no event will Lessor voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Leased Premises or any part thereof without the written consent of the County.

ARTICLE XIV

DESTRUCTION OF LEASED PREMISES

In the event the Leased Premises are damaged or destroyed by fire or other casualty following the Substantial Completion Date, this Lease shall not terminate nor shall there be any abatement of the Lease Payments or Additional Rent otherwise payable by County hereunder; provided, however, that the County may elect to defease or prepay the Lease Payments in accordance with Sections 5.3 and 12.1 hereof.

ARTICLE XV

ACCESS BY LESSOR

At any time during the term hereof, Lessor or Lessor's agents shall have the right to enter the Leased Premises on reasonable notice to examine the same. Nothing contained herein shall be construed to impose upon Lessor any duty of repair of the Leased Premises.

ARTICLE XVI

SURRENDER OF PREMISES

The County shall promptly yield and deliver to Lessor possession of the Leased Premises at the expiration of this Lease or at any prior termination date, unless the County purchases the Leased Premises in accordance with the terms of this Lease.

ARTICLE XVII

ASSIGNMENT AND SUBLEASING

17.1. Assignment by the Lessor. The Lessor's right, title and interest in and obligations and duties under this Lease, including the right to receive and enforce payment of the Lease Payments to be made by the County under this Lease may be assigned and reassigned, subject to prior written consent of the County; provided, however, that Lessor's assignments to the Trustee in the form set forth on Exhibit H attached hereto and incorporated herein by this reference and in accordance with Section 4.05 of the Trust Agreement are hereby permitted and consented to by the County. The County hereby expressly acknowledges and consents to execution and delivery of the Certificates pursuant to the Trust Agreement.

17.2. Assignment and Subleasing by the County. This Lease may be assigned by the County with the written consent of Lessor; provided, however, that the County shall first obtain an opinion from Bond Counsel that such assignment will not have an adverse effect on the tax-exempt status of the interest component of Lease Payments. The County may sublease all or a portion of the Leased Premises; provided, however, that the County shall remain obligated to make the Lease Payments and Additional Rent Payments hereunder notwithstanding any obligation that a subtenant may have to the County pursuant to any sublease under this subsection 17.2; and provided further that the County shall first obtain an opinion from Bond Counsel that the sublease of the Leased Premises or portion thereof to the proposed tenant will not have an adverse effect on the tax-exempt status of the interest component of Lease Payments. No assignment or sublease by the County shall be deemed to release or modify the obligations of the County under the Environmental Indemnity Agreement.

17.3. Leases upon Default. If the County defaults under Section 18.1 hereof and Lessor re-enters the Leased Premises without terminating this Lease, then Lessor shall use its best efforts to sublease the Premises to tenants; provided, however, that Lessor shall first obtain an opinion from Bond Counsel that the lease of the Leased Premises or portion thereof to the proposed tenant or tenants will not have an adverse effect on the tax-exempt status of the interest component of Lease Payments. Notwithstanding anything in this

Lease to the contrary, all rental income or other payments received by Lessor from such tenants shall be deposited into the Lease Payment Fund and credited against Lease Payments and Additional Rent otherwise payable by the County under this Lease. Upon payment in full of all Lease Payments to Lessor (whether by payment from County or credits from payments from tenants other than the County, or otherwise) this Lease shall terminate.

ARTICLE XVIII

DEFAULT BY COUNTY

18.1. Defaults. Time is of the essence hereof, and in the event that (i) County shall fail to make when due any payment of Lease Payments or Additional Rent; or (ii) County shall default in the performance or observance of any of the other terms, covenants, conditions or agreements of this Lease which default is not cured within thirty (30) days after written notice and demand, or if such default shall be of such a nature that the same cannot practicably be cured within said thirty (30) day period and County shall not within said thirty (30) day period commence with due diligence and dispatch the curing and performance of such defaulted term, covenant, condition or agreement, or if County shall within said thirty (30) day period commence with due diligence and dispatch to cure and perform such defaulted term, covenant, condition or agreement and shall thereafter fail or neglect to prosecute and complete with due diligence and dispatch the curing and performance of such defaulted term, covenant, condition or agreement; then and in any such case, at Lessor's option and in addition to all other rights or remedies Lessor may, following the expiration of the cure period, if any, provided herein for such default, immediately declare County's rights under this Lease terminated, and re-enter the Leased Premises, using such force as may be necessary, and repossesses itself thereof, as of its former estate, and remove all persons and property from the Leased Premises. Upon default, the Trustee as Lessor may exercise any and all remedies and rights provided for under the Trust Agreement. Notwithstanding any such re-entry, the liability of County for the Lease Payments at such times and in such amounts provided for herein by Exhibit B-1 and B-2 shall not be extinguished for the balance of the term of this Lease, and the County shall make good to Lessor any deficiency arising from receipt by Lessor upon a reletting of the Leased Premises of a lesser rental than that hereinbefore agreed upon. All rental income and other payments received by Lessor for the Leased Premises and deposited into the Lease Payment Fund pursuant to Section 17.3 hereof in such event shall be credited against the Lease Payments and Additional Rent obligations of the County.

18.2. Litigation Expenses. In the event Lessor is required to bring any action for the enforcement of any of the covenants, terms and conditions of this Lease, and shall be successful in such action, the County shall, in addition to all other payments required

herein, pay all the costs of any actions brought by Lessor including reasonable attorneys' fees and costs. This Section shall not be deemed to modify Section 9.1 hereof.

18.3. Waiver. Neither the acceptance of Lease Payments nor any other actions or omissions of Lessor at any time or times after the happening of any event authorizing the cancellation or forfeiture of this Lease, shall operate as a waiver of any past or future violation, breach or failure to keep or perform any covenant, agreement, term or condition hereof, or deprive Lessor of its right to cancel or forfeit this Lease, upon the written notice provided for herein, at any time that cause for cancellation or forfeiture may exist, or be construed so as to at any future time estop Lessor from promptly exercising any other option, right or remedy that it may have under any term or provision of this Lease.

ARTICLE XIX

TAX COVENANTS

19.1. Tax Exempt Status of Interest Component of Lease Payments. The Lessor and County intend that the interest component of the Lease Payments hereunder shall be exempt from federal income tax payable by the owners of the Certificates. County and Lessor hereby each covenant that they will not make any use of the Leased Premises that will cause this Lease to be treated as an "arbitrage bond" within the meaning of Section 148(a) of the federal Internal Revenue Code of 1986 as amended, and applicable regulations thereunder, at the time of such use. The County shall comply with the applicable requirements of Section 148(a) of the Code and the applicable regulations thereunder throughout the term of the Lease. The County and Lessor each covenant that they will not act or fail to act in a manner that will cause the Lease to be considered an obligation not described in Section 103(a) of the Code. The County and Lessor each further covenant that they will take no actions that would cause the Lease to be treated as a "private activity bond" as defined in Section 141 of the Code then in effect.

ARTICLE XX

MISCELLANEOUS

20.1. Notices. Any notices required in accordance with any of the provisions herein shall be sent by registered or certified mail addressed to Lessor or County, respectively as follows:

County: King County
King County Administration Building
500 Fourth Avenue, Room 611
Seattle, WA 98104

Attention: Finance Director

Prior to Substantial Completion, notices for the County should also be sent to:
 Manager, Property Services Division
 King County Administration Building,
 500 Fourth Avenue, Room 500
 Seattle, WA 98104

Lessor: Issaquah Courthouse, LLC, as initial Lessor
 c/o Langly Associates, Inc.
 3633 136th Pl. S.E.
 Suite 205
 Bellevue, WA 98006
 Attention: Russell Keithly

First Trust National Association, as Trustee
 Two Union Square, Suite 2120
 601 Union Street
 Seattle, WA 98101
 Attention: Dawnita Brown

or at such other place as Lessor, Trustee or County may in writing direct. In the event that Lessor's interests hereunder are assigned in trust to the Trustee, then requirements that Lessor be notified shall be met by notice to the Trustee. All notices shall be deemed effective upon receipt, refusal of delivery or attempted delivery.

20.2. No Joint Venture. It is not intended by this Lease to, and nothing contained in this Lease shall, create any partnership, joint venture or other arrangement between Lessor and County. No term or provision of this Lease is intended to be, or shall be, for the benefit of any person, firm, organization or corporation, other than the parties hereto, and none shall have any right or cause of action hereunder.

20.3. Interest. If the County shall fail to pay, when the same is due and payable, any Lease Payment set forth in Article III, or any Additional Rent or additional sums of money to be paid by the County under this Lease, such unpaid amounts shall bear interest from the due date thereof until paid at the rate of twelve percent (12%) per annum.

20.4. Entire Agreement. This Lease, together with any exhibits or attachments hereto and forming a part hereof, set forth the entire agreement of Lessor and County concerning the Leased Premises, and there are no other agreements or understandings, oral or written, between Lessor and County. Any subsequent modification of this Lease shall

be binding upon Lessor and County only if reduced to writing and signed by each party intended to be bound; provided, however, that from and after assignment of any rights under this Lease to the Trustee in accordance with Section 17.1 hereof, any amendment of this Lease must also be made in accordance with the provisions of Section 8.03 of the Trust Agreement.

20.5. Partial Invalidity. If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

20.6. Recording. Lessor shall not record this Lease without the written consent of County; however, upon the request of either party hereto the other party shall join in the execution of a memorandum or so-called "short form" of this Lease for the purposes of recordation. Said memorandum or short form of this Lease shall describe the parties, the Leased Premises and the term of the Lease and shall incorporate this Lease by reference.

20.7. Payments Due on Saturdays, Sundays and Holidays. In any case where a Lease Payment Date or the date fixed for prepayment of any Lease Payments is not a Business Day, then payment hereunder need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on such Lease Payment Date or date fixed for prepayment, and no interest on such payment shall accrue for the period after such date.

20.7. Governing Law; Time. This Lease and the rights of the parties hereto shall be governed and construed in accordance with the laws of the State of Washington. Time is of the essence of this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

ISSAQUAH COURTHOUSE, LLC, a
Washington limited liability company, as
Lessor

By _____
Title _____

KING COUNTY, WASHINGTON, as Lessee

13023

By _____
County Executive

ATTEST:

By _____
Clerk of the Council

13023

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared RONALD SIMS and ANNE NORIS, to me known to be the County Executive and Clerk, respectively of King County, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on stated that they were authorized to execute said instrument.

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

NOTARY PUBLIC in and for the State of
Washington
Print/Type Name: _____
Residing at: _____
Commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of ISSAQUAH COURTHOUSE, LLC, the limited liability company that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of them and the said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

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

NOTARY PUBLIC in and for the State of
Washington
Print/Type Name: _____
Residing at: _____

13023

Commission expires _____

13023

EXHIBIT A

LEGAL DESCRIPTION OF LAND

The following described real property located in King County, Washington:

EXHIBIT A

13023

THE LAND REFERRED TO IN THIS COMMITMENT IS SITUATED IN THE STATE OF WASHINGTON, COUNTY OF KING AND IS DESCRIBED AS FOLLOWS:

THE SOUTH 20 ACRES OF THAT PORTION OF THE WEST 1/2 OF THE NORTHEAST 1/4 AND OF THAT PORTION OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 21, TOWNSHIP 24 NORTH, RANGE 6 EAST W.M., LYING SOUTHWESTERLY OF THE NORTHERN PACIFIC RAILWAY COMPANY RIGHT-OF-WAY AND LYING NORTHEASTERLY OF THE CENTERLINE OF ISSAQUAH CREEK AS IT WAS LOCATED ON OCTOBER 9, 1953, AND LYING NORTHERLY OF SOUTHEAST 56TH STREET AS CONVEYED BY DEED RECORDED UNDER RECORDING NO. 5108205, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SAID SOUTHEAST 56TH STREET WITH THE SOUTHWESTERLY LINE OF SAID RAILWAY RIGHT-OF-WAY;
THENCE NORTH 14°58'39" WEST ALONG SAID SOUTHWESTERLY LINE 756.37 FEET TO THE NORTH LINE OF SAID SOUTH 20 ACRES;
THENCE NORTH 87°33'59" WEST ALONG SAID NORTH LINE 1682.99 FEET TO THE WEST LINE OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 21;
THENCE SOUTH 01°40'42" WEST ALONG SAID WEST LINE 100.77 FEET TO THE CENTERLINE OF ISSAQUAH CREEK AS LOCATED ON OCTOBER 9, 1953;
THENCE ALONG SAID CENTERLINE BY THE 13 FOLLOWING COURSES:

NORTH 79°52'51" EAST 50.20 FEET, NORTH 70°01'01" EAST 58.52 FEET;
SOUTH 70°50'40" EAST 100.57 FEET, SOUTH 57°12'02" EAST 160.60 FEET;
THENCE 71°41'50" EAST 136.93 FEET, SOUTH 56°18'36" EAST 36.06 FEET, SOUTH 35°46'34" EAST 167.63 FEET;
SOUTH 61°13'13" EAST 162.01 FEET, SOUTH 45°34'43" EAST 70.01 FEET, SOUTH 50°21'19" EAST 45.45 FEET, SOUTH 77°28'16" EAST 46.10 FEET, SOUTH 27°17'58" EAST 174.43 FEET, SOUTH 38°47'05" EAST 70.28 FEET TO THE NORTH LINE OF SAID SOUTHEAST 56TH STREET;
THENCE SOUTH 87°33'59" EAST ALONG SAID NORTH LINE 893.27 FEET TO THE POINT OF BEGINNING;

EXCEPT ANY PORTION THEREOF CONVEYED TO KING COUNTY FOR SOUTHEAST 56TH STREET BY DEED RECORDED UNDER RECORDING NO. 6696356;
AND EXCEPT THAT PORTION THEREOF CONVEYED TO KING COUNTY FOR S.E. 56TH STREET BY DEED RECORDED UNDER RECORDING NO. 8808040250;

AND EXCEPT ANY PORTION THEREOF CONVEYED TO KING COUNTY FOR 220TH AVENUE SOUTHEAST BY DEED RECORDED UNDER RECORDING NO. 9511020369;
AND EXCEPT ANY PORTION THEREOF LYING EASTERLY OF THE WESTERLY MARGIN OF SAID 220TH AVENUE SOUTHEAST AS CONVEYED BY DEED RECORDED UNDER RECORDING NO. 9511020369.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

EXHIBIT B-1

LEASE TERM AND LEASE PAYMENT SCHEDULE

1. Total Principal Component of Lease Payments: \$ _____
2. Interest shall be calculated and shall accrue from the date of this Lease: February 1, 1998.
3. Maturity Schedule for Lease Payments:

<u>Year (December 1)</u>	<u>Principal Component</u>	<u>Interest Rate Applicable</u>
2001		
2002		
2003		
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		

13023

EXHIBIT B-2
AMORTIZATION SCHEDULE OF TOTAL LEASE PAYMENTS
(Excluding Additional Rent)

<u>Lease Payment Date</u>	<u>Principal Component of Lease Payment</u>	<u>Interest Component of Lease Payment</u>	<u>Total Lease Payment</u>
June 1, 1998	0		
December 1, 1998	0		
June 1, 1999	0		
December 1, 1999	0		
June 1, 2000	0		
December 1, 2000	0		
June 1, 2001	0		
December 1, 2001			
June 1, 2002			
December 1, 2002			
June 1, 2003			
December 1, 2003			
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June 1, 2013			
December 1, 2013			
June 1, 2014			
December 1, 2014			
June 1, 2015			
December 1, 2015			
June 1, 2016			
December 1, 2016			
June 1, 2017			
December 1, 2017			
June 1, 2018			
December 1, 2018			
June 1, 2019			
December 1, 2019			

BOND DEBT SERVICE

13023

King County
Issaquah District Court Financing - Series 1998

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
Feb 18, 1998	-	-	-	-	-
Jun 1, 1998	-	-	82,579.89	82,579.89	-
Dec 1, 1998	-	-	140,230.00	140,230.00	222,809.89
Jun 1, 1999	-	-	140,230.00	140,230.00	-
Dec 1, 1999	-	-	140,230.00	140,230.00	280,460.00
Jun 1, 2000	-	-	140,230.00	140,230.00	-
Dec 1, 2000	-	-	140,230.00	140,230.00	280,460.00
Jun 1, 2001	-	-	140,230.00	140,230.00	-
Dec 1, 2001	205,000.00	4.150%	140,230.00	345,230.00	485,460.00
Jun 1, 2002	-	-	135,976.25	135,976.25	-
Dec 1, 2002	210,000.00	4.200%	135,976.25	345,976.25	481,952.50
Jun 1, 2003	-	-	131,566.25	131,566.25	-
Dec 1, 2003	220,000.00	4.250%	131,566.25	351,566.25	483,132.50
Jun 1, 2004	-	-	126,891.25	126,891.25	-
Dec 1, 2004	230,000.00	4.350%	126,891.25	356,891.25	483,782.50
Jun 1, 2005	-	-	121,888.75	121,888.75	-
Dec 1, 2005	240,000.00	4.400%	121,888.75	361,888.75	483,777.50
Jun 1, 2006	-	-	116,608.75	116,608.75	-
Dec 1, 2006	250,000.00	4.450%	116,608.75	366,608.75	483,217.50
Jun 1, 2007	-	-	111,046.25	111,046.25	-
Dec 1, 2007	260,000.00	4.500%	111,046.25	371,046.25	482,092.50
Jun 1, 2008	-	-	105,196.25	105,196.25	-
Dec 1, 2008	275,000.00	4.550%	105,196.25	380,196.25	485,392.50
Jun 1, 2009	-	-	98,940.00	98,940.00	-
Dec 1, 2009	285,000.00	4.600%	98,940.00	383,940.00	482,880.00
Jun 1, 2010	-	-	92,385.00	92,385.00	-
Dec 1, 2010	300,000.00	4.650%	92,385.00	392,385.00	484,770.00
Jun 1, 2011	-	-	85,410.00	85,410.00	-
Dec 1, 2011	315,000.00	4.750%	85,410.00	400,410.00	485,820.00
Jun 1, 2012	-	-	77,928.75	77,928.75	-
Dec 1, 2012	325,000.00	4.800%	77,928.75	402,928.75	480,857.50
Jun 1, 2013	-	-	70,128.75	70,128.75	-
Dec 1, 2013	345,000.00	4.850%	70,128.75	415,128.75	485,257.50
Jun 1, 2014	-	-	61,762.50	61,762.50	-
Dec 1, 2014	360,000.00	4.950%	61,762.50	421,762.50	483,525.00
Jun 1, 2015	-	-	52,852.50	52,852.50	-
Dec 1, 2015	375,000.00	5.000%	52,852.50	427,852.50	480,705.00
Jun 1, 2016	-	-	43,477.50	43,477.50	-
Dec 1, 2016	395,000.00	5.100%	43,477.50	438,477.50	481,955.00
Jun 1, 2017	-	-	33,405.00	33,405.00	-
Dec 1, 2017	415,000.00	5.100%	33,405.00	448,405.00	481,810.00
Jun 1, 2018	-	-	22,822.50	22,822.50	-
Dec 1, 2018	435,000.00	5.100%	22,822.50	457,822.50	480,645.00
Jun 1, 2019	-	-	11,730.00	11,730.00	-
Dec 1, 2019	460,000.00	5.100%	11,730.00	471,730.00	483,460.00
	5,900,000.00		4,064,222.39	9,964,222.39	9,964,222.39

SOURCES AND USES OF FUNDS

King County
Issaquah District Court Financing - Series 1998

13023

Dated Date 2/15/1998
Delivery Date 2/18/1998

Sources:

Bond Proceeds:	
Par Amount	5,900,000.00
Accrued Interest	2,337.17
<hr/>	
	5,902,337.17
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Uses:

Other Fund Deposits:	
Accrued Interest	2,337.17
Delivery Date Expenses:	
Underwriter's Discount	74,399.00
Other Uses of Funds:	
Const. Fund & Issuance Expenses	5,825,601.00
<hr/>	
	5,902,337.17
<hr/>	

EXHIBIT C

FORM OF NOTICE OF ELECTION OF OPTION TO PURCHASE

[date]

To: Lessor

You are hereby notified that King County, Washington, has elected to exercise on [date of payment] its option to purchase the Issaquah District Court facilities (the "Leased Premises") currently leased by the County pursuant to the Lease (the "Lease") by and between the County and Lessor dated February __, 1998. This purchase option is being exercised pursuant to Article XII of said Lease. The 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 Article XII of said Lease, the County shall purchase the Leased Premises for a price of the total outstanding principal portion of the Lease Payments set forth in Exhibit B-1 to the Lease plus accrued interest thereon to the date of payment at the rates set forth in Exhibit B-1 of the Lease, plus an option fee of \$1.00, for a total Purchase Price of \$_____.

KING COUNTY, WASHINGTON

By _____
Authorized Representative

EXHIBIT D

FORM OF NOTICE OF ELECTION TO PARTIALLY PREPAY LEASE PAYMENTS

[date]

To: Lessor

You are hereby notified that King County, Washington has elected to exercise its option to prepay a portion of the Lease Payments due under that certain Lease (the "Lease") by and between the County and Lessor dated February __, 1998. In accordance with Section 12.4 of the Lease, the date of prepayment shall be _____, and the principal portion of Lease Payments 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, the County shall pay to Lessor in cash or same-day available funds, an amount equal to the principal portion of Lease Payments to be prepaid, together with interest thereon accruing to such date, together with any other amounts payable under the Lease on such date. From and after such date, the term of the Lease shall be shortened in accordance with Section 12.4 to terminate on _____.

KING COUNTY, WASHINGTON

By _____
Authorized Representative

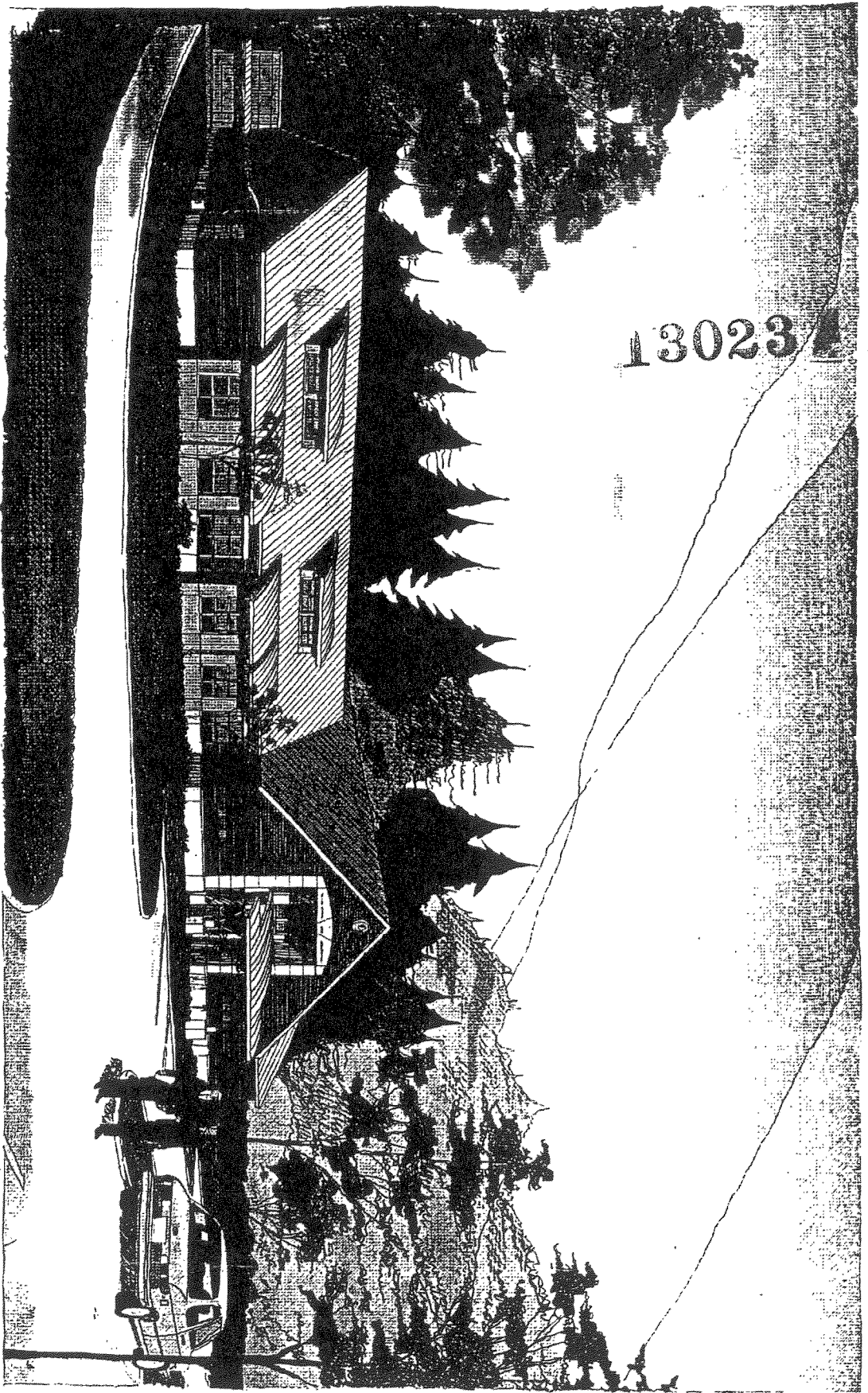
Schedule of Principal Component of Lease Payments to be Prepaid

Date Principal Component Due	Amount of Principal Component to be Prepaid*
------------------------------	--

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

13023

EXHIBIT E
[Attach here a copy of the Plans]



13023

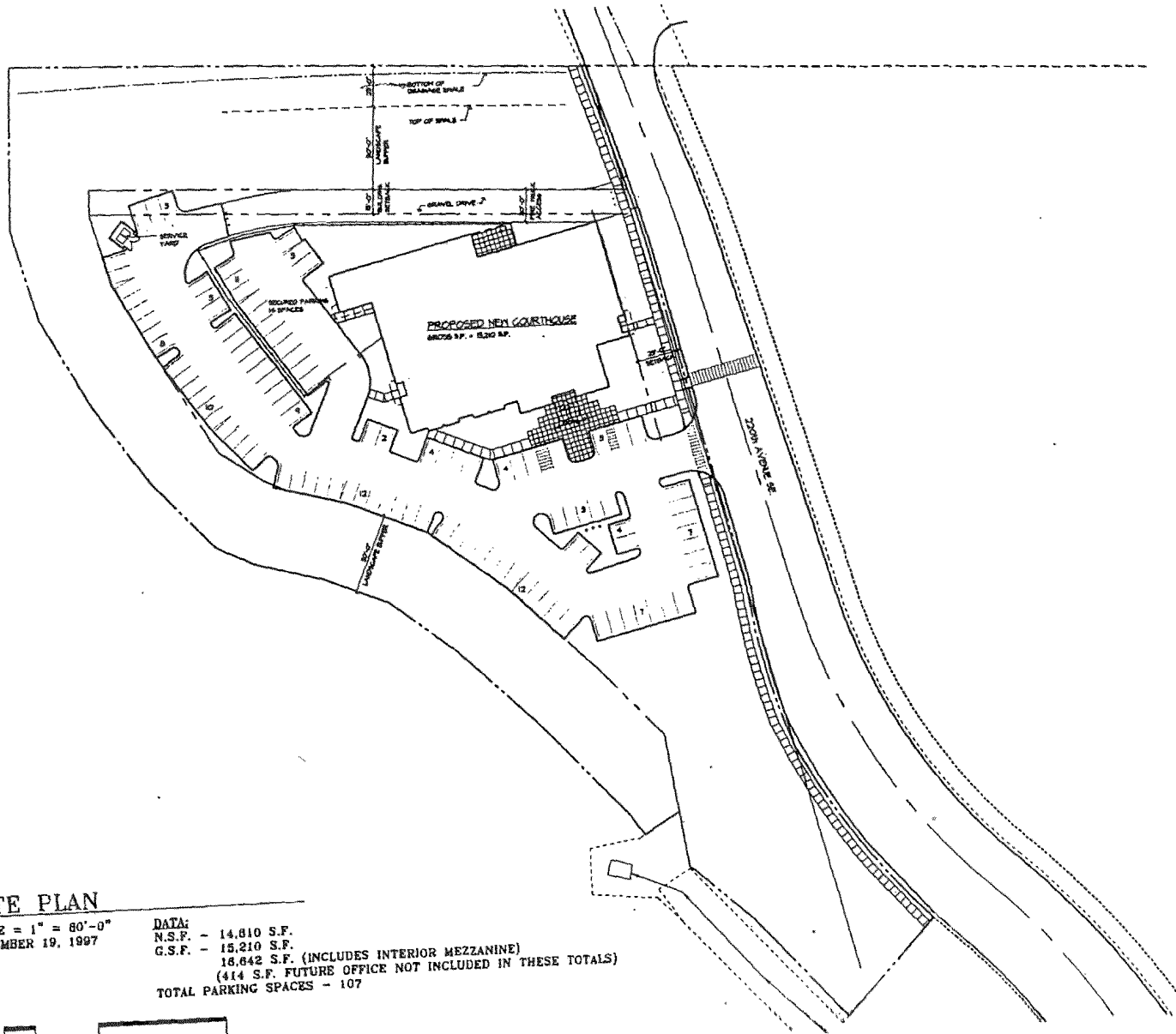


KING COUNTY
DISTRICT COURT
ISSAQUAH DIVISION

L
Langley Associates, Inc.

**BAYLIS
BRAND
WAGNER**
ARCHITECTS

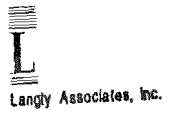
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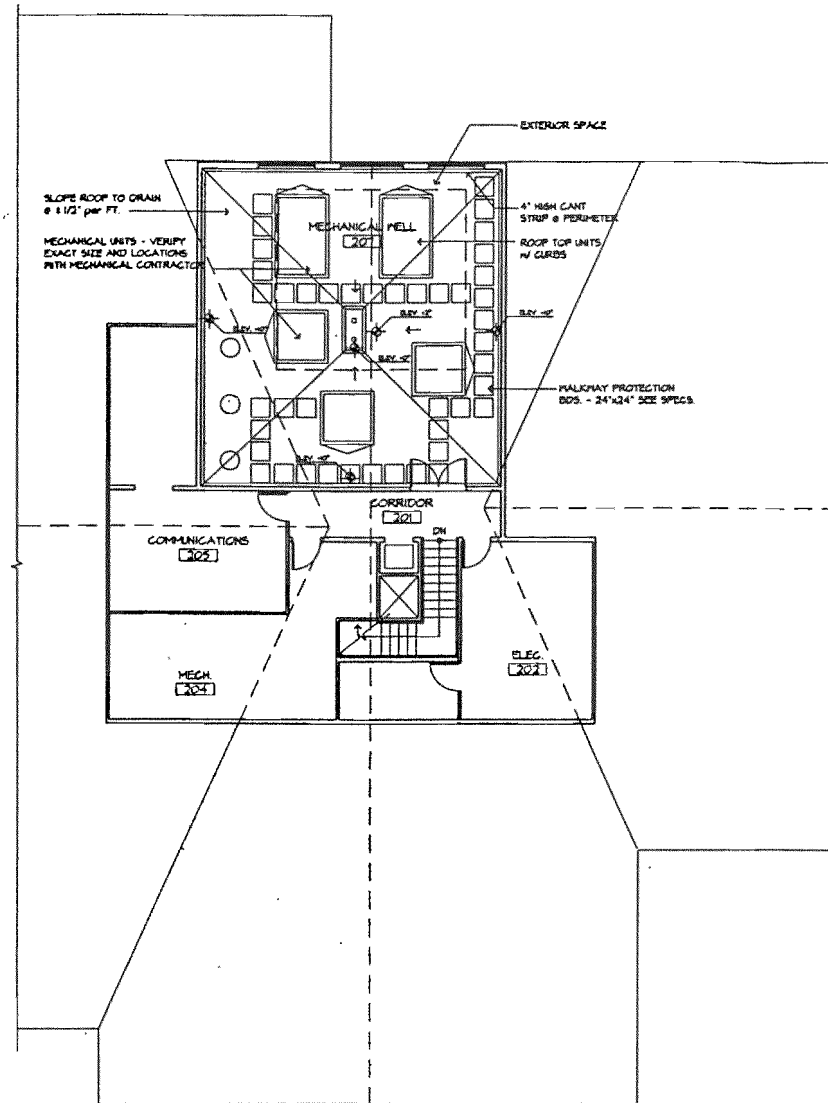
SITE PLAN

SCALE = 1" = 80'-0"
DECEMBER 19, 1997

DATA:
 N.S.F. - 14,810 S.F.
 G.S.F. - 15,210 S.F.
 18,642 S.F. (INCLUDES INTERIOR MEZZANINE)
 (414 S.F. FUTURE OFFICE NOT INCLUDED IN THESE TOTALS)
 TOTAL PARKING SPACES - 107



13023

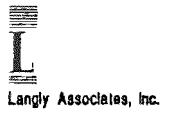


MEZZANINE PLAN

SCALE = 1/16" = 1'-0" NOVEMBER 13, 1987

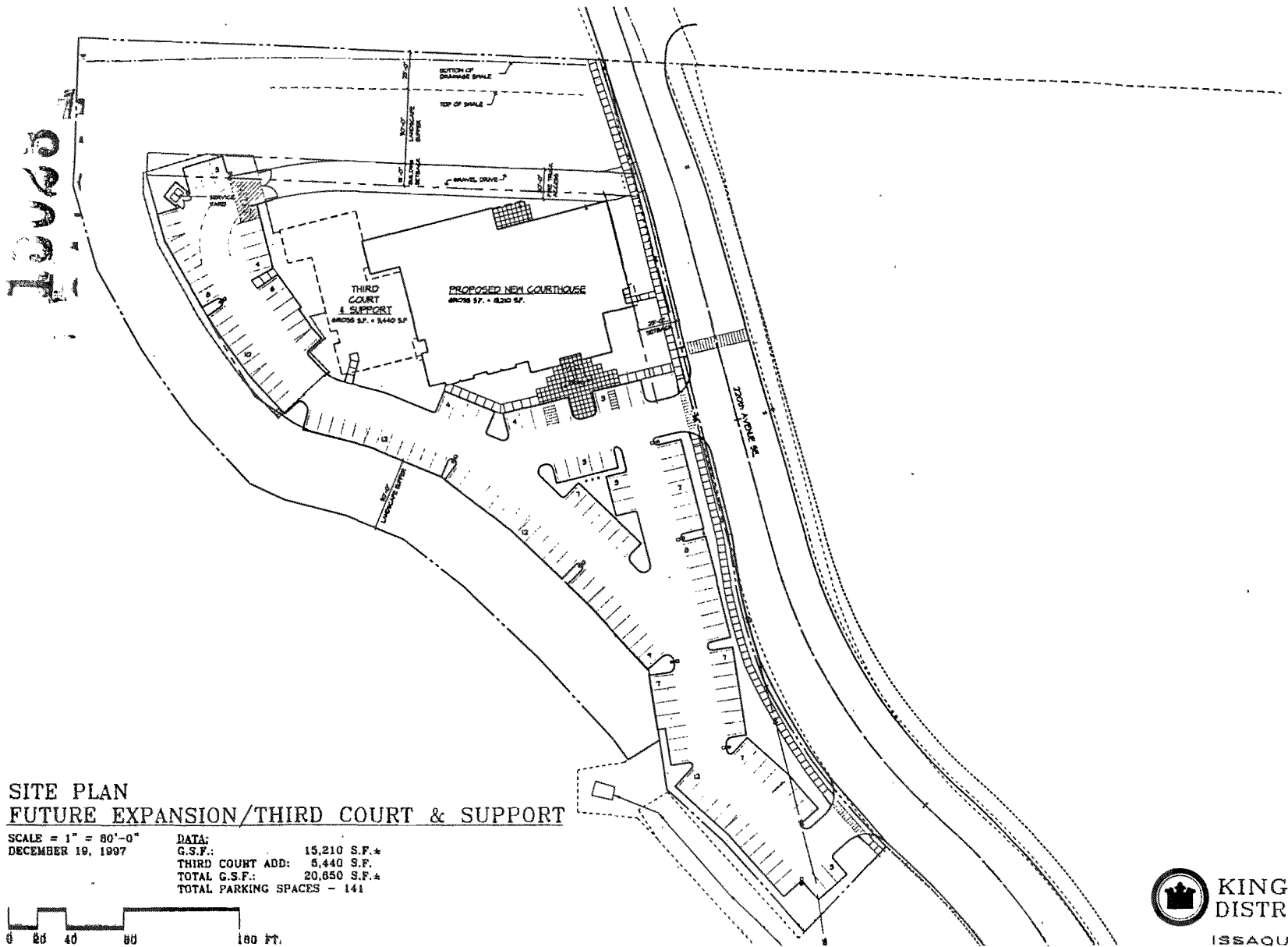
MEZZANINE
GROSS SQ. FOOTAGE = 2553
(INCLUDES EXTERIOR MECHANICAL WELL)

INTERIOR SPACE
GROSS SQ. FOOTAGE = 1432



**KING COUNTY
DISTRICT COURT**

ISSAQUAH DIVISION



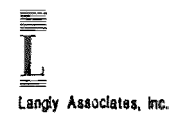
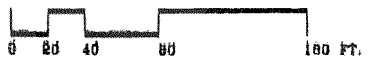
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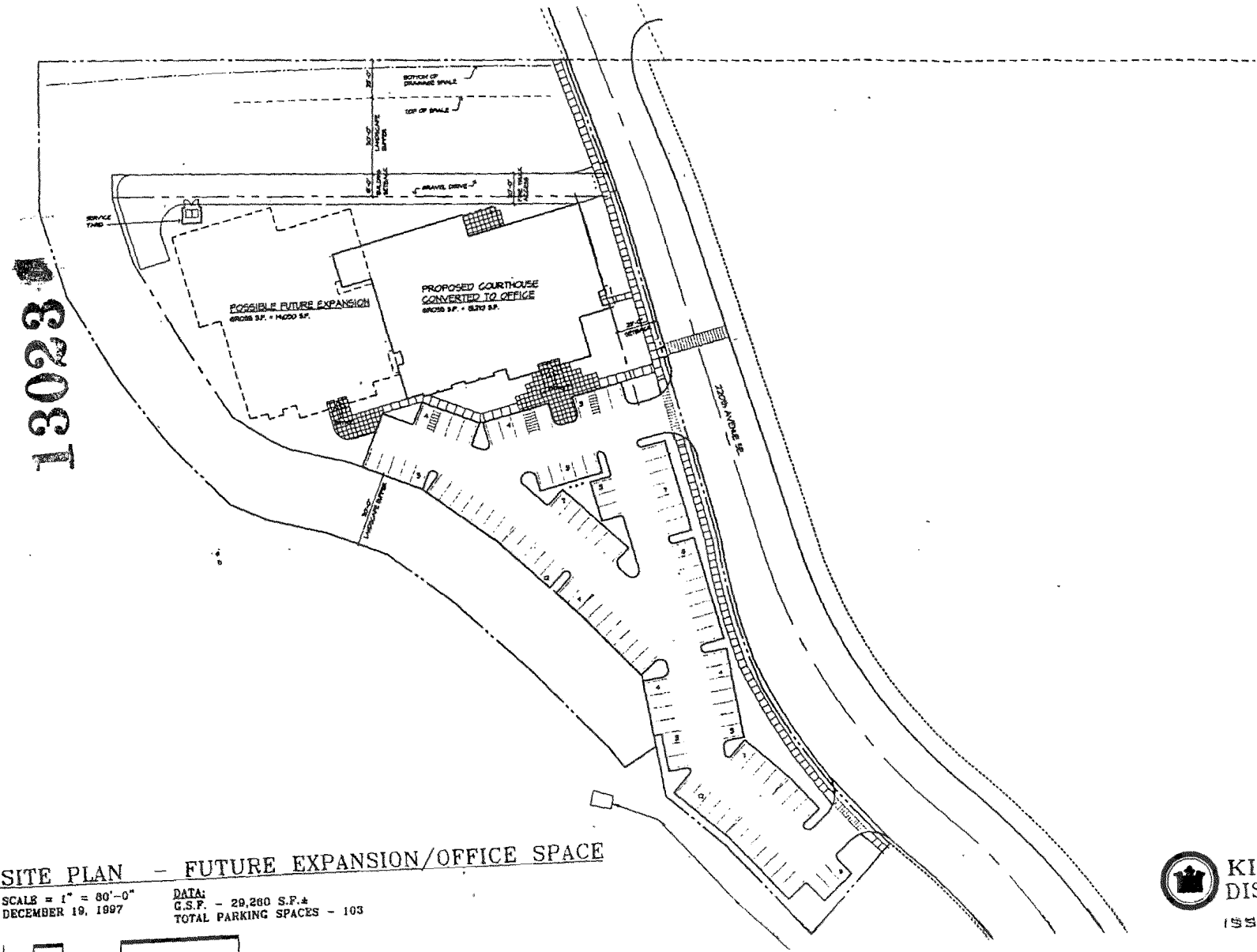


SITE PLAN
FUTURE EXPANSION/THIRD COURT & SUPPORT

SCALE = 1" = 80'-0"
 DECEMBER 19, 1997

DATA:
 G.S.F.: 15,210 S.F.*
 THIRD COURT ADD: 5,440 S.F.
 TOTAL G.S.F.: 20,650 S.F.*
 TOTAL PARKING SPACES - 141

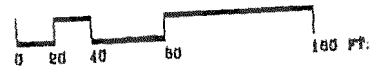




SITE PLAN - FUTURE EXPANSION/OFFICE SPACE

SCALE = 1" = 80'-0"
DECEMBER 19, 1997

DATA:
G.S.F. - 20,280 S.F. ±
TOTAL PARKING SPACES - 103



KING COUNTY DISTRICT COURT - ISSAQUAH DIVISION

Revised: December, 1997



OUTLINE SPECIFICATION

DIVISION 1 - GENERAL REQUIREMENTS

A. Scope:

The building will be located on a parcel in Issaquah, Washington on S.E. 56th Street near E. Lake Sammamish Parkway, which contains approximately 95,150 SF.

The project will be a part of the King County District Court system and include approximately 15,210 GSF of space on the main floor and an additional 1,432 SF in a storage/mechanical mezzanine. The project will include approximately 107 surface parking stalls. The project will be constructed of Type V-N construction with fire sprinklers.

B. General Information:

Type of Construction: - Office & Courtrooms V-N

Occupancy: - Office B
- Courtrooms A-3

Seismic Zone: - 3

Building Code: - 1994 UBC, including all 1994 Washington State Amendments, as adopted by King County Building & Land Use

General Conditions: - AIA Document A201, 1987 Edition

C. Allowances: The following allowances shall be made for specified items, shall include materials and installation, and shall cover the net cost to the subcontractor; additional General Contractor charges, sales tax and similar items are in addition to these amounts.

Furniture, Accessories and Interior Landscaping:	By Owner
Directories and Miscellaneous Interior Signage:	\$ 10,000
Exterior Building-Mounted Signage:	\$ 3,000
Carpet and Pad:	\$24/Sq.Yd.
Tile:	\$8/Sq.Ft.

D. Building Structure: Building structure shall consist of concrete footings and foundations to be determined supporting a post and beam structural system. The exterior walls shall be load-bearing masonry. The ground level shall be a reinforced 4" concrete slab on-grade for the basic building. The mezzanine level shall be glu-lam beams with prefabricated wood trusses with 3/4" plywood sheathing and lightweight concrete topping. The roof shall be prefabricated wood trusses with 5/8" plywood sheathing and glu-lam beams with purlins at vaulted lobby ceiling.

DIVISION 2 - SITE WORK

A. Clearing: As required for project development and as shown on site plan. This work shall consist of removal of brush, debris and unsuitable materials from the site.

B. Earthwork/Grading: See site plan drawings for building location and floor elevations. Perform all required excavation grading and temporary erosion sedimentation control in accordance with drawings and geotechnical report dated April 10, 1996, prepared by Agra Earth & Environmental.

- C. Storm Drainage Control: Surface water shall be collected in catch basins and directed to subsurface detention system in accordance with the King County requirements and drawings of civil engineering. Storm drainage control shall include temporary erosion control, all catch basins, piping and out-fall structures in accordance with requirements. Building roof shall be drained by fascia-mounted gutters and downspouts which shall be discharged into the storm system. See Division 15 for drainage of subsurface parking level.
- D. Site Utilities: Water, natural gas, electric power, sanitary sewer, storm sewer and telephone services are available at the site. All utilities shall run underground to the building. Install underground utilities including domestic water meter, landscape irrigation meter, gas piping, sanitary sewer piping and stormwater piping. Contractor shall be responsible for underground hook-up of electrical and telephone to available systems including transformer conduits and pull boxes.
- E. Paving, Curbing and Striping: Paving shall be Class B 3" of asphalt paving over 6" of crushed rock base over compacted native sub-base. Curbing shall be 6" extruded curbs bonded to asphalt with epoxy at all perimeter areas; all radius corners shall be reinforced with concrete filler. Striping shall include parking stall lines, crosswalks, arrows and lane markings, symbols and signs.
- F. Landscaping and Irrigation: Irrigation shall be completed in accordance with the County requirements and plans and final specifications. Landscape design shall include native decorative evergreen shrubs and groundcover and deciduous and evergreen trees at the landscape strips on the east and south sides. Street trees with decorative steel grates shall occur along street frontage.
- G. Trash Dumpster: 6'-0" high split-faced CMU as described in Division 4 with black chain-link gates with cedar slats.

DIVISION 3 - CONCRETE

- A. Reinforced Concrete/Cast-in-Place Concrete: As required by General Structural Notes.
- B. Sidewalks & Concrete Floors: 2,000 psi concrete, 4" thick with 10x10/6x6 WWM reinforcing and expansion joints at approximately 15-feet on center and control joints scored at 5-feet on center.
 - 1) Expansion Joints: Pre-molded asphalt impregnated fiberboard 1/2" thick. Use where exterior slabs abut vertical building surfaces and within sidewalks and cast-in-place curbs.
- C. Concrete Bulkhead Wall: Per Section "A" above with 1-1/2"x1/2" reveals as shown on drawings.
- D. Concrete Finishes:
 - 1) Vertical Surfaces on the Building: Where exposed, sack finish and stain.
 - 2) Sidewalks: Light broom and medium broom finish in patterns by Architect.
- D. Lightweight Concrete Slab: 4" lightweight concrete slab at mechanical room floor at mechanical/storage loft.

DIVISION 4 - MASONRY

- A. Exterior walls shall be steel reinforced structural masonry with laid in place, split-face CMU at the walls with accent bands. Nominal 8"x8"x16" colored split-face CMU block will be used at walls, manufactured by Mutual Materials Company or equal, in colors to be determined. Accent courses will be 8"x4"x16" smooth brick or 8"x4"x16" ground-face block at building face as shown on the drawings.

DIVISION 5 - STEEL

- A. Structural and Miscellaneous Steel shall include reinforcing steel, steel beams, open web joist and columns as required, and miscellaneous shapes, plates and angles as required for connections.

KING COUNTY DISTRICT COURT - ISSAQUAH DIVISION

- B. Entry Canopy and Covered Porches: Steel columns and beams of galvanized steel to be painted. All steel is exposed and supports raised-seam metal roof panels at main entry.
- C. Galvanizing and Priming: All steel exposed to the weather shall be galvanized. All steel except for concrete reinforcing shall be shop-primed.

DIVISION 6 - WOOD

- A. Light Framing: 2x6 wood studs at exterior and 2x4 at interior walls and partitions except as noted. Alternative: Light gauge metal studs.
- (1) Floor Sheathing: 3/4" T&G CDX plywood (at mechanical loft only).
 - (2) Wall Sheathing: 1/2" CDX plywood.
 - (3) Roof Sheathing: 5/8" T&G CDX plywood.
 - (4) Draft Stops: As required by code in concealed ceiling spaces and walls.
- B. Finish Carpentry:
- *Courtroom Judge's Bench, Spectator Benches, Walls and Trim at Courtrooms*: Exposed faces from courtroom side, hardwood lumber and veneer plywood. All unexposed and semi-exposed areas, plastic laminate.
 - *Counters at Toilet Rooms*: Plastic laminate.
 - *Cabinetry and Countertops at Lunch Room*: Plastic laminate.
 - *Countertops at Work Rooms*: Plastic laminate.
 - *Countertops at Interview Desks*: Plastic laminate.

DIVISION 7 - THERMAL & MOISTURE PROTECTION

- A. Insulation Types: All insulations where exposed above ceilings at office shall have a flame-spread rating not to exceed 25 and a smoke development rating as required.
- 1) Roof Insulation: R-30 batt insulation installed within roof truss.
 - 2) Wall Insulation: 6" R-19 unfaced fiberglass batts installed in the stud cavity with plastic vapor retarder stapled over the studs on the inside.
- B. Sound Insulation: Install 4" mineral wool batt insulation in all toilet room and courtroom walls and other locations to be designated on the floor plans; extend from floor to under-side of sheathing above.
- C. Metal Panel Siding: Prefabricated corrugated metal panels painted with Kynar finish to match roof; Citadel "Panel 20" or equal..
- D. Metal Roofing: "Easy Lock" 24-gauge Kynar-finished, raised seam metal roof, including all accessories. Fascias and gutters and downspouts shall be custom fabricated to match roofing.
- E. Flashings: Parapet and similar copings to be 20-gauge galvanized steel; other miscellaneous metal flashings to be 26-gauge galvanized steel.
- 1) Flashings within masonry cavity to be W.R. Grace Perm-a-Barrier.
- F. Roof Ventilation: 1/8" galvanized steel mesh.

DIVISION 8 - DOORS AND WINDOWS

- A. Interior Doors - Office Lobbies & Corridors: Interior doors shall be 1-3/4" solid core doors, 3'-0"x7'-0" with particle board core and wood veneer. Door frames shall be painted hollow metal. Storage room doors to be fire-rated hollow-metal frames with hollow metal doors, rated for fire where necessary.
- B. Exterior Doors: Except at main entry storefront areas and as shown on drawings, painted hollow-metal doors and frames with wire glass relite ±120 square inches.
- C. Storefront at Office Windows, Public Corridor & Main Entry: Thermal break aluminum storefront and doors with anodized clear aluminum finish.
 - 1) Glazing:
 - a) Main Entry: 1" clear insulated units.
 - b) All Other Office: 1" insulated units with solar bronze glass.

DIVISION 9 - FINISHES (See Finish Schedule for locations)

- A. Gypsum Wallboard: 5/8" Type X GWB on all walls and at ceilings where noted.
- B. Acoustic Ceiling: 2x4 suspended grid system with non-directional fissured tiles, where shown.
- C. Decorative Ceiling: 12x12 concealed spline acoustical tiles at vaulted ceiling at public corridor.
- D. Carpet: Allow \$24/SY for carpeting where shown.
- E. Slate Tile at Floor & Wainscot F: Allow \$8/SF.
- F. Ceramic Tile at Public & Staff Restroom: Allow \$8/SF.
- G. Sealed Concrete Floors: Mechanical Rooms: Finish concrete floors with sealant and non-skid surface.
- H. Sheet Vinyl: Allow \$12/yd. for vinyl flooring where shown (see Finish Schedule).
- I. Plastic Laminate: Laminate by Wilsonart, Formica or Nevamar or approved equal where indicated.
- J. Painting:
 - 1) Interior GWB Walls & Ceilings: One coat PVA primer and two coats eggshell finish latex.
 - 2) Interior Painted Wood Trim: One coat latex wood primer and two coats satin finish alkyd enamel.
 - 3) Interior Stained Wood Trim & Doors: One coat sanding sealer, one coat stain, two coats satin finish lacquer.
 - 4) Exterior Ferrous Metal: One coat shop-applied primer, two coats field-applied alkyd enamel.
 - 5) Exposed Concrete at Building: One coat transparent stain, two coats clear sealer.
 - 6) Exterior Masonry: Two coats clear sealer.

DIVISION 10 - SPECIALTIES

- A. Toilet Accessories: Toilet room accessories by Bobrick including rimless mirrors, soap dispensers, double toilet paper dispensers with shelf, recessed paper towel dispensers with receptacle, grab-bars and sanitary napkin receptacles.

KING COUNTY DISTRICT COURT - ISSAQUAH DIVISION

- B. Signs & Directories: Install labeling signs at courtrooms and on all common area doors including all code-required signs, meeting barrier-free requirements. Install directory at main entry lobby.
- C. Fire Protection: Fire extinguishers shall be installed in semi-recessed cabinets as approved by the County Fire Marshal.
- D. Entry Mats: Ped-i-mat or equal recessed mat, 6'-0"x4'-0" in size at exterior side of entry doors.

DIVISION 11 - EQUIPMENT (Not in Building Contract)

DIVISION 12 - FURNISHINGS

- A. Window blinds shall be 1" metal slat Levelor "Riviera" or equal installed at all windows except retail level.

DIVISION 13 - SPECIAL CONSTRUCTION (Not in Building Contract)

DIVISION 14 - CONVEYING EQUIPMENT

- A. DUMBWAITER from main floor to storage loft. Rated for minimum 200 lb. capacity, approximately 30"x30"x36" car dimension.

DIVISION 15 - MECHANICAL

- A. Heating, Ventilating & Air Conditioning: The HVAC system shall be designed by the bidder with design guidelines and specifications prepared by the Owner's consultant. The Owner will retain a Mechanical consultant to work with the General Contractor's mechanical subcontractor. Vibration isolation and acoustical noise reduction in the structure and ductwork will also be that bidder's responsibility. Drawings shall be stamped by a licensed Engineer of the bidder's selection and as approved by the Owner and will be reviewed by the Owner's mechanical consultant for compliance with guidelines and specifications. System shall comply with all state and local codes, including the Washington State Energy Code and the Washington State Indoor Air Quality Act. Heating and air conditioning systems shall be the following types:
 - 1) Heating and Air Conditioning System shall be VAV, VVT or heat pump system. Mechanical equipment shall be located in a mechanical loft located above the file rooms area. Outdoor air shall be provided by grills through roof and side walls. Air handles and duct work shall be concealed and located in ceiling plenum space and truss areas. All systems shall include an economizer. System shall be designed with multiple zones as follows:
 - a) Zones shall accommodate each different side of building as well as corner condition.
 - b) Zones shall accommodate each courtroom separately.
 - c) Separated zones shall be provided for general office areas and small individual offices.
 - d) Provide ventilation for toilet rooms.
- B. Plumbing: Plumbing systems shall be bidder-design in accordance with all state and local codes. Use Flushometer type, low-flow toilet fixtures and urinals, self-rimming vitreous china lavatories, and self-rimming enameled cast iron kitchen sink at lunch room.
- C. Automatic Fire Extinguisher System: Automatic sprinkler system to be bidder-design and installed per current codes.

DIVISION 16 - ELECTRICAL

- A. Power Service: All work will be done from plans and specifications prepared by Owner's consultant. Install secondary conduits, and connect and pull cable to switch-gear in building electrical room where located on plans.
- B. Provide fire alarm system (monitoring connection per King County ordinances, by King County).
- C. Electrical System: Electrical system shall include distribution of power with all outlets and other devices as required for janitorial servicing in accordance with the drawings and as approved by the Owner and in conformance with all state and local codes. Conduit and mud rings for telephone and data systems, and security systems.
- D. Lighting shall be as follows:
 - 1) Parking Lots: H.I.D. cut-off downlights on 30' high aluminum poles with concrete base.
 - 2) Office Lobbies & Courtrooms: Recessed fluorescent downlights, wall-mounted and recessed directional Halogen accent lights and suspended up-down fluorescent fixtures.
 - 3) Toilets: Fluorescent recessed downlighting cans and indirect fluorescent.
 - 4) General and Small Office Areas: Recessed 2x4 fluorescent fixtures with parabolic diffusers.
- E. Installation of telephone data, security surveillance and alarm systems will be by King County staff or consultants and not part of contract.

END OF OUTLINE SPECIFICATION

(Attachment to AIA A111 Contract - Article 16.1.7)

Subject: Assumptions & Clarifications

- Contractor's Construction Schedule - Contract is based on a seven (7) month schedule from project start to substantial completion. Contract is based on a construction start no later than August 1, 1998. This start date is critical to the cost of the project in order to utilize the recommendations contained in the soils report for utilization of on site soils for use as fill material, staging and construction sequencing. Work to proceed in one continuous sequence as defined by JRACO construction schedule dated January 15, 1998 as attached and made a part of these assumptions and clarifications. Owner furnished or Tenant performed work (if any) to be completed within this schedule.
- Contract scope of work for sitework included is further defined as follows. If moisture sensitive soils are encountered increased costs may result. These increased costs will be incorporated by change order for such work items as treatment of moisture sensitive on site soils per the soils report, weather protection of the building envelope and the possible resultant general condition costs. General condition costs are identified as \$5,500 per week. Foundation design, slab-on-grade floor support, building structure, and earthwork preparation are based on conclusions and recommendations of Agra for a moderate earthquake event with standard occupancy structure using shorter earthquake reoccurrence, but not those resulting from a severe earthquake. As stated in the soils report, "Accordingly, this will depend on the occupancy category designated by King County". This contract is based on conventional shallow foundation and slab-on-grade floor support and not augercast piling and a structural slab as required under a severe earthquake. If this occupancy category is not acceptable to King County then new estimated costs would need to be figured under the new criteria.
- Contract work is based on use of on-site materials for all fills including structural fills as defined in the soils report. We understand that the Owner is carrying a contingency for overexcavation, export of unsuitable soils and import of select fill materials (if required).
- When the drawings and specifications are sufficiently complete as agreed to by the parties, the contractor shall bid out the project and shall propose a revised guaranteed maximum price to the Owner for approval. The revised GMP will then be incorporated into the contract by change order.
- This cost estimate is based on meeting prevailing wage scale structure only and does not include or meet any other requirements of Washington State Prevailing Wage law or laws pertaining to public works projects. As this project is a private works project and therefore subject only to the terms and conditions of the contract between Owner and Contractor the project would not be subject to Washington State law pertaining to public works projects.
- J.R. Abbott Construction to provide monthly signed affidavits from all companies providing labor on site in order to show compliance with prevailing wage request. No other documentation to be provided. We do not include MBE/WBE/DVBE/SBE requirements. We recommend that the Owner carry an escalation factor for these requirements or any other requirements pertaining to their agreements with King County, if needed.

- The Mechanical and Electrical scopes of work are based on a 'Bidder Design' defined scope of work. Electrical scope of work is further defined by the attached scope sheet. Specifications defining materials to be used on the project, as well as engineered plans shall be submitted to the Owner and Architect for their review and approval. If comments and recommendations from the Owner, and owner's agents result in increased or decreased costs then the contract sum will be adjusted accordingly.
- Owner, owner's agents, architect and contractor agree to attend meetings to further define and coordinate the mechanical and electrical requirements to fit within the established cost budgets in a timely manner. Contractor reserves the right to select the subcontractor's to be used in the mechanical and electrical work. Architect shall be employed by the Owner to furnish mechanical and electrical design criteria and review scope of work from bidder design subcontractor's for completeness, code compliance, coordination with building design and tenant requirements to ensure that the requirements of the Owner, King County and governing authorities are defined. Architect to provide an initial desired electrical lighting design for use by the project team.
- The Owner shall endeavor to promote harmony and cooperation among the Owner, Architect, King County representatives, Contractor and other persons or entities employed in this project.
- The Contractor, Architect, Owner and other persons as appropriate to the agenda shall jointly schedule and attend regular progress meetings. The Contractor shall consult with the Owner and Architect regarding site use and improvements, selection of building materials, building systems and equipment. The Contractor shall provide recommendations on construction feasibility, actions designed to minimize adverse effects of labor and material shortages, time requirements for procurement, installation and construction completion; and factors related to construction cost including estimates of alternative designs or materials, progress estimates and possible economies. Owner, Architect and their agents agree to work in the best interests of the Owner with the Contractor to realize costs and economies to fit within this contract amount.
- Finished floor elevations to be finalized with Contractor in order achieve a balanced site to utilize all cuts and fill material on site and not export on site materials.
- Wetland mitigation costs or landscape buffer provisions are excluded.
- Asphalt paving profile of 3" asphalt and 6" crush throughout.
- Based on top four feet of existing fills under the building pad being suitable to overexcavate and recompact to design criteria per soils report, as well as all other fill materials needed to complete the work.
- Relocation of any existing utilities or structures is excluded. None shown.
- Architectural finishes based on finish schedule in April 1996 plans.
- Based on one-hour rated corridor for Public Corridor #103 but not Secure Corridor #123. Doors and hardware for corridor #103 are 20 minute rated.
- Interior Doors are included as (51) 3x7 and 5 pr of solid core 1 3/4" with paint grade birch. Hollow metal (6) doors and (62) frames to be non-galvanized. Doors 18 gauge honeycomb core or polyurethane "R-14" at exterior. Frames to be 16 gauge with welded corners and stud anchors to install before drywall. Door Hardware specifications to be determined by consultation with contractor, hardware supplier and architect in order to fit within this budget.

- Sheet metal roofing is based on BHP "Skyline" 24-gauge standing seam system with a Kynar finish. Standard flashings.
- Metal panels at exterior windows to be shop fabricated aluminum.
- Accents shown on public corridor walls to be reveals in the gypsum wall board. Drywall taping to level 4 finish. Tenant walls are not framed to structure. Exterior walls to be 3 1/2" metal studs with batt insulation to provide thermal break. Type 'X' walls on reference plans not called out to be "4C" or "4D". Stud gauges to be based on 5 psf lateral loads.
- Ceramic and Slate Tile systems \$8.00 per square foot, furnished and installed. Recessed Entry Mats.
- Masonry walls: 8x8x16 colored split face CMU with an 8x4x16 gray ground face half high CMU at approximately 1 foot 4 inches on center (every third course) including dumpster enclosure. Precast concrete at Entry is excluded. Allowance of \$10,000.
- Counter's at toilet rooms; Cabinetry and countertops in lunchroom; Countertops at Work rooms 116 & 117, holding 141,142, clerk 138; Cabinets in: jury assembly, work 174, police 159, work 155, jury 126. Excludes all shelving.
- All storefront window systems to be U.S. Aluminum series 451T with thermal break frames; clear anodized; narrow stile doors; surface closers; offset pivots; standard locks; push/pulls. 1" or 1/4" clear glass at entry, balance to be tinted.
- Painting inclusions: GWB - one coat latex wall primer and one coat latex eggshell. Doors, frames, and relites and structural steel two coats latex.
- One 200 lb. Capacity D.A. Matot model "100" dumbwaiter.
- Plumbing "bidder design" criteria to define level of standards and cost is as follows. Water closets and urinals to be Universal Rundle with Sloan Regal flush valves, lavatories and faucets to be Universal Rundle, Hand sinks to be Republic, drinking fountains to be Sunroc, lunchroom sink to be Kohler, Mop sink to be Mustee, hot water heater to be American, recirculating pump to be Grundfos, floor and roof drains to be Zurn, holding cell lav/toilet combinations to be Bradley, waste, vent and roof drain piping to be pvc above and below ground and domestic water piping to be type L copper with insulation per Washington state energy code. Design to allow for access wall behind holding cell lav/toilets for maintenance. Four exterior hose bibbs, one roof drain at mezzanine, four floor drains, one lunchroom sink, one electric hot water heater, floor mounted water closets.
- Fire sprinkler system based on plan approval by King County, installed per NFPA #13. We do not include Factory Mutual, WSRB or other insurance rating requirements. We exclude a fire pump (if required). Heads in exposed areas to be chrome recessed, above ceilings to be brass. Testing per NFPA #13 and King County. Excludes centering of heads in ceiling tiles. Design to provide for code compliant fire sprinkler room on exterior north wall of main floor.
- HVAC system to be "bidder design" to meet Wash State Energy code requirements. Four, Trane or York, roof mounted gas electric air conditioning units, one split system and one (1.5 ton) thru wall heat pump for the jury assembly room. Nine exhaust fans for restrooms and conference rooms. One exhaust fan for work room 116 and one for work room 155. Include four smoke/fire dampers. Electronic thermostats, seven zone VVT system, fiberglass ductwork. No linear diffusers. Air balancing, HVAC drawings and permit.

- Electrical bidder design: Standard office light fixtures (parabolic 3-lamp troffers, Lithonia PM3 series). Include one in-slab power/data raceway in open office 110 and one raceway for each courtroom. Include cable trays in corridor 103 and 123. Electrical scope of work included and clarified is further defined by scope letter by R. Martin Electric, Inc. dated 11/21/97 as attached. Does not include telephone cable, jacks or equipment, computer/data cabling, jacks or equipment, security alarm systems, security entry systems, intercom systems, CCTV or other special security systems or point to point raceways for fiber optic or data cabling.

Allowances

The following are allowances included in the contract. (allowances include all costs to furnish and install complete systems)

• Utility Company Charges (for Primary Electrical only)	\$17,000.00
• Retention Storm Water Pond	\$12,000.00
• Utility Metering & Fees	\$ 2,500.00
• Landscaping & Irrigation	\$30,000.00
• Entry Wall Accent Block and Finishes	\$10,000.00
• Courtroom Millwork Package (judges bench, public pews, wood paneling, wainscoting, chair rail, millwork, trim, raised platform, ramp/stair to platform)	\$60,000.00
• Exterior Signage	\$ 3,000.00
• Interior Signage	\$10,000.00
• Window Treatment	\$ 2,000.00
• Energy Management System (Alterton)	\$20,000.00
• Carpet (furnish and install) based on \$24.00 sy	\$29,400.00
• Holding Cell Doors incl. Door, Frame, Hardware, Install	\$ 4,000.00
• Automatic Door Operators to Doors 101, 102, 108 A & B	\$ 6,240.00
• Electronic security hardware, card access, power connection, supplies and installation	\$20,000.00
• Concealed Spine Ceiling	\$ 8,700.00

Exclusions

The following are exclusions from the scope of work. Owner should carry costs for these items, if required:

- Architectural Services
- Building Permit and Plan Check Fees
- Builder's All Risk Insurance Premiums
- Hazardous Materials Abatement
- Auger cast piling
- Dewatering, well points
- Excavation and disposal of unsuitable soils/materials costs and cost to import select materials and fills
- Costs to excavate below elevations called out in contract documents
- Temporary access fills or roads

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- Utility Company Charges or Connection Fees
- Power Company primary service charges
- Telephone Company service charges, cabling and equipment
- Gas Company charges, if any
- Property survey and "Alta Survey"
- Contingencies
- Any other millwork and trim, including bookshelves in Library 130.
- Any office furnishings, fixtures
- Extended Roof warranty, beyond two years
- Any other Bonds as might be required by King County ie. Landscape, Grading, Public Works, Street Improvement, etc.
- Costs related to King County building department plan review and comments
- ADA upgrades
- Testing and Inspection Fees
- Fire Alarm Monitoring
- Security Systems
- Temporary Erosion Control
- System development fees, impact fees or assessments
- Washington State Sales Tax
- Performance and Material Payment Bond Premiums

J.R. ABBOTT CONSTRUCTION, INC.

13023 COST BREAKDOWN

KING COUNTY COURTHOUSE- Contract
 ISSAQUAH, WA

Estimate number: 3042 Building Footprint: 16,642
 Estimator: Tim Strand Gross Site Area: 0
 Project Duration: 30.00 Gross Building Area: 16,642

	Total Cost	Quantity	Unit	Unit Price	Total	Cost / Sf
General Requirements	174,526					10.49
PROJECT ADMINISTRATION		30	WK	1,640.40	49,212	2.96
PROJECT SUPERVISION		30	WK	1,817.00	54,510	3.28
PRINTING & MAILING		1	LS	1,425.00	1,425	0.09
TESTING & INSPECTION SERVICE		0	OWR	0.00	0	0.00
TEMPORARY UTILITIES		30	WK	189.23	5,677	0.34
TEMPORARY FACILITIES		30	WK	430.07	12,902	0.78
SAFETY MEASURES		1	LS	1,684.00	1,684	0.10
MATERIAL HANDLING		30	WK	331.87	9,956	0.60
SURVEYING & LAYOUT		1	LS	5,749.00	5,749	0.35
CLEAN-UP & DISPOSAL		30	WK	547.03	16,411	0.99
ARCHITECTURAL SERVICES		0	OWR	0.00	0	0.00
BUILDING PERMIT FEES		0	OWR	0.00	0	0.00
BUILDER'S ALL RISK INSURANCE		0	OWR	0.00	0	0.00
UTILITY COMPANY CHARGES		1	ALW	17,000.00	17,000	1.02
CONTINGENCIES		0	EXC	0.00	0	0.00
Sitework & Demolition	313,169					18.82
SITE HAZARDOUS MATERIALS		0	EXC	0.00	0	0.00
DEWATERING		0	EXC	0.00	0	0.00
EARTHWORK		35,500	SF	1.36	48,450	2.91
EARTHWORK - CONTINGENCY		0	EXC	0.00	0	0.00
POND ALLOWANCE		1	ALW	12,000.00	12,000	0.72
FINE GRADE PRIOR TO PAVING		35,500	SF	0.10	3,500	0.21
GRADE FOR WALKS		5,370	SF	0.88	4,723	0.28
FOUNDATION EXCAVATION		83	CY	54.94	4,560	0.27
BALLAST UNDER FOOTINGS		0	EXC	0.00	0	0.00
AUGERCAST PILING		0	EXC	0.00	0	0.00
UTILITY METERING & FEES		1	ALW	2,500.00	2,500	0.15
WATER DISTRIBUTION		1	LS	58,000.00	58,000	3.49
FIRE LINE SUPPLY/VAULT		1	LS	17,300.00	17,300	1.04
SANITARY SEWER		1	LS	6,100.00	6,100	0.37
NATURAL GAS SERVICE		0	INC	0.00	0	0.00
SITE ELEC/TELE CONDUIT		100	LF	10.00	1,000	0.06
FOUNDATION DRAINAGE		600	LF	4.50	2,697	0.16
STORM DRAINAGE		1	LS	20,700.00	20,700	1.24
TIGHTLINE DOWNSPOUTS		1	LS	5,750.00	5,750	0.35
OFFSITE IMPROVEMENTS		0	N/A	0.00	0	0.00
GRAVEL UNDER SLABS		14,610	SF	0.58	8,535	0.51
SLAB PREPARATION		14,610	SF	0.36	5,327	0.32
ASPHALT PAVING		35,500	SF	1.23	43,600	2.62
GRAVEL DRIVE		4,800	SF	0.53	2,533	0.15
PAVEMENT CURBS/STRIPING/SIG		35,500	SF	0.19	6,870	0.41
CAST IN PLACE SITE CURBS		80	LF	15.00	1,200	0.07
SITE SIDEWALKS		3,625	SF	2.30	8,355	0.50
FENCING & SECURITY OPERATOR		380	LF	43.42	16,500	0.99
SITE FURNISHINGS		1	LS	2,969.00	2,969	0.18
LANDSCAPING & IRRIGATION		1	ALW	30,000.00	30,000	1.80
Concrete	114,571					6.88

J.R. ABBOTT CONSTRUCTION, INC.

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Project Name: KING COUNTY COURTHOUSE- Contract
 Project Location: ISSAQUAH, WA

	Total Cost	Quantity	Unit	Unit Price	Total	Cost / Sf
FOOTINGS & PADS		51	CY	204.00	10,404	0.63
WALLS TO 4'		2,150	SF	13.56	29,150	1.75
COLUMN PLINTHS		108	SF	8.08	873	0.05
CONCRETE REINF. STEEL- MAT'L		137	CY	62.77	8,599	0.52
CONCRETE REINF. PLACING		137	CY	34.72	4,757	0.29
CONCRETE REINF. MESH		5,470	SF	0.11	602	0.04
CONC SLAB REINFORCING		14,610	SF	0.36	5,237	0.31
SLAB ON GRADE		14,610	SF	1.78	26,047	1.57
EXTERIOR DUMPSTER SLAB		100	SF	5.50	550	0.03
BUILDING ENTRY SIDEWALKS		1,745	SF	4.40	7,682	0.46
CONC SEALER @ MEZZ DECK		1,432	SF	0.20	290	0.02
ENTRY ACCENT FINISHES		1	ALW	10,000.00	10,000	0.60
CONC. SLAB ON DECKS		2,553	SF	2.60	6,630	0.40
SET SHEAR WALL BOLTS		300	EA	5.00	1,500	0.09
SACK & PATCH		2,150	SF	1.05	2,250	0.14
Masonry	97,225					5.84
MASONRY REINFORCING		6,200	SF	0.48	3,000	0.18
MASONRY SHORING/LAYOUT		6,200	SF	0.44	2,750	0.17
REINFORCED UNIT MASONRY		6,200	SF	14.75	91,475	5.50
Metals	9,853					0.59
STRUC & MISC STEEL -MAT'L		16,642	SF	0.31	5,100	0.31
MISC METALS - INSTALL		16,642	SF	0.29	4,753	0.29
Carpentry	353,609					21.25
SHEAR WALL FRAMING-UPGRADE		1	LS	10,000.00	10,000	0.60
MILLWORK & RUNNING TRIM		0	N/A	0.00	0	0.00
ROOF/MEZZ WOOD STRUCTURE		15,210	SF	13.14	199,821	12.01
LEDGERS TO CONC OR CMU		0	INC	0.00	0	0.00
MEZZANINES		0	INC	0.00	0	0.00
DRAFT STOPS		1	LS	2,731.00	2,731	0.16
ROOF CURBS & MECH OPENINGS		1	LS	4,800.00	4,800	0.29
WALL CAP AT CMU		600	LF	3.90	2,340	0.14
COURTROOM MILLWORK		1	ALW	60,000.00	60,000	3.61
CUSTOM CASEWORK		1	LS	64,154.00	64,154	3.85
BLOCKING & BACKING		1,600	LF	2.00	3,205	0.19
F.R.P. PANELING		141	SF	4.80	677	0.04
WOOD STAIRS & RAILINGS		1	EA	3,681.00	3,681	0.22
CARPENTRY SMALL TOOLS		16,642	SF	0.13	2,200	0.13
Thermal and Moisture Protection	192,070					11.54
BUILDING INSULATION		16,642	SF	1.59	26,500	1.59
EXTERIOR INSULATION SYS		200	SF	12.80	2,560	0.15
MÉTAL SIDING		1	LS	18,500.00	18,500	1.11
BUILT UP ROOFING SYSTEM		1,120	SF	5.50	6,160	0.37
SHEET METAL ROOFING		18,250	SF	7.37	134,500	8.08
ROOF HATCH		0	N/A	0.00	0	0.00
ROOF RELIEF VENTS		3	EA	450.00	1,350	0.08
JOINT SEALANTS		16,642	SF	0.15	2,500	0.15
Doors and Windows	148,429					8.92
HOLLOW METAL DOORS		1	LS	12,749.00	12,749	0.77

J.R. ABBOTT CONSTRUCTION, INC.

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Project Name: KING COUNTY COURTHOUSE- Contract
 Project Location: ISSAQUAH, WA

	Total Cost	Quantity	Unit	Unit Price	Total	Cost / Sf
HOLDING CELL DOORS		1	ALW	4,000.00	4,000	0.24
WOOD DOORS & FRAMES		58	EA	264.05	15,315	0.92
ACCESS DOORS		3	EA	100.00	300	0.02
COILING DOORS & GRILLES		0	EXC	0.00	0	0.00
ALUM. STOREFRONT & WINDOWS		1,400	SF	32.50	45,500	2.73
DOOR HARDWARE		64	EA	412.19	26,380	1.59
AUTO DOOR OPERATORS		1	ALW	6,240.00	6,240	0.37
KEY CARD ENTRY SYSTEM		1	ALW	20,000.00	20,000	1.20
INTERIOR GLASS & GLAZING		1	LS	3,950.00	3,950	0.24
BULLET RESISTANT GLASS		1	LS	4,950.00	4,950	0.30
CLERK AREA WINDOWS/DRAWER		1	LS	9,045.00	9,045	0.54
Finishes	332,405					19.97
DRYWALL & METAL STUDS		16,642	SF	11.15	185,600	11.15
CERAMIC TILE		2,880	SF	8.00	23,040	1.38
SLATE TILE FLOOR & WAINSCOT		3,688	SF	8.00	29,504	1.77
ACOUSTICAL CEILINGS		11,580	SF	1.40	16,212	0.97
CONCEALED SPLINE CEILING		1	ALW	8,700.00	8,700	0.52
FLOOR PREPARATION		14,610	SF	0.21	3,049	0.18
FLOOR COVERING & BASE		1	LS	7,200.00	7,200	0.43
CARPET		1,225	SY	24.00	29,400	1.77
PAINTING		16,642	SF	1.78	29,700	1.78
Specialties	28,095					1.69
METAL TOILET PARTITIONS		8	EA	400.00	3,200	0.19
FLAGPOLES		3	EA	741.00	2,223	0.13
EXTERIOR SIGNAGE		1	ALW	3,000.00	3,000	0.18
INTERIOR SIGNAGE		1	ALW	10,000.00	10,000	0.60
LOCKERS		12	EA	200.00	2,400	0.14
FIRE EXTINGUISHERS		4	EA	82.00	328	0.02
TOILET & BATH ACCESSORIES		1	LS	6,944.00	6,944	0.42
Furnishings	3,452					0.21
FURNISHINGS/FIXTURING		0	EXC	0.00	0	0.00
ENTRY MATS		48	SF	30.25	1,452	0.09
WINDOW TREATMENT		1	ALW	2,000.00	2,000	0.12
Special Construction	20,000					1.20
ENERGY MGMT. SYSTEMS		1	LS	20,000.00	20,000	1.20
FUTURE OFFICE AREA		0	EXC	0.00	0	0.00
Conveying	17,500					1.05
DUMBWAITERS		1	EA	17,500.00	17,500	1.05
Mechanical	188,045					11.30
FIRE PROTECTION		16,642	SF	2.70	44,900	2.70
PLUMBING		16,642	SF	3.01	50,035	3.01
HVAC SYSTEMS		16,642	SF	5.59	93,110	5.59
Electrical	194,000					11.66
ELECTRICAL		16,642	SF	10.46	174,000	10.46
SECURITY SYSTEMS / CCTV		0	EXC	0.00	0	0.00
TELE/DATA CABLE & EQUIPMENT		0	EXC	0.00	0	0.00

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J.R. ABBOTT CONSTRUCTION, INC.

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Project Name: KING COUNTY COURTHOUSE- Contract
Project Location: ISSAQUAH, WA

	Total Cost	Quantity	Unit	Unit Price	Total	Cost / Sf
SOUND & VIDEO SYSTEMS		0	EXC	0.00	0	0.00
FIRE ALARM SYSTEM		16,642	SF	1.20	20,000	1.20
Overhead and Fee	109,347					#Div/0!
Business Tax and Insurance	28,704					#Div/0!
Bond	0					#Num!
Sales Tax	0					#Num!
TOTAL ESTIMATED COST	2,325,000					139.71

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EXHIBIT F
PROJECT BUDGET

Issaquah District Courthouse

4 Apr-98	5 May-98	6 Jun-98	7 Jul-98	8 Aug-98	9 Sep-98	10 Oct-98	11 Nov-98	12 Dec-98	13 Jan-99	14 Feb-99	15 Mar-99	Total
10.0	10.0	10.0	10.0	1,330.0								1,440.0
												7.2
				162.8	232.5	348.8	348.8	348.8	348.8	534.8		2,325.1
				14.0	20.0	30.0	30.0	30.0	30.0	46.0		200.0
				12.0	17.1	25.7	25.7	25.7	25.7	39.4		171.3
											150.0	150.0
				24.9								24.9
20.0			20.0									40.0
			20.0									20.0
			50.0									50.0
10.3						15.5						25.8
30.8	30.8	30.8	30.8	5.0	5.0	5.0	5.0	5.0	5.0	5.0		189.0
				3.0	3.0	3.0	3.0	3.0	3.0	3.0		21.0
												10.0
			20.0	10.0	1.0	1.0	1.0	1.0	1.0	1.0		41.0
												4.0
				1.0	1.0	1.0	1.0	1.0	1.0	1.0		7.0
				30.0	16.7	16.7	16.7	16.7	16.7	16.7		130.0
											387.5	387.5
												55.1
												60.0
												135.0
				8.8	12.6	18.9	18.9	18.9	18.9	29.0		126.3
71.1	40.8	40.8	150.8	1,601.5	308.9	465.5	450.0	450.0	450.0	675.8		5,620.0
71.1	40.8	40.8	150.8	1,601.5	308.9	465.5	450.0	450.0	450.0	675.8		
448.2	489.0	529.8	680.6	2,282.1	2,591.0	3,056.6	3,506.6	3,956.7	4,406.7	5,082.5		
2.8	3.2	3.5	4.2	14.4	16.5	19.1	22.3	25.5	28.6	32.6		176.6
											99.0	99.0
73.9	44.0	44.3	155.0	1,615.9	325.4	484.7	472.4	475.5	478.7	708.4		
454.9	498.9	543.2	698.1	2,314.1	2,639.5	3,124.1	3,596.5	4,072.0	4,550.7	5,259.2		5,895.7

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EXHIBIT G

PROJECT SCHEDULE

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Pre-Construction and Construction Schedule -- Issaquah District Court

Exhibit G

	A	B
Commence Construction Drawings Upon King County Approval	if Feb. 2, 1998	if Feb. 9, 1998
(add six weeks)		
Submit for Building Permit to DDES ¹	then March 16, 1998	then March 23, 1998
(add 30 days)		
Application Deemed Complete by DDES	April 15, 1998	April 22, 1998
(add 120 days)		
Receipt of Building Permit by DDES	Aug. 12, 1998	August 19, 1998
Commence Construction Sitework	Aug. 17, 1998	August 24, 1998
Commence Building Foundations/Slab/Walls	Sept. 3, 1998	Sept. 10, 1998
Commence Roof Framing	Oct. 26, 1998	Nov. 2, 1998
Commence Interior Build-Out	Dec. 9, 1998	Dec. 16, 1998
Commence Acoustical Ceiling Grid	Jan. 29, 1999	Feb. 5, 1999
Projected Substantial Completion	March 26, 1999	April 2, 1999

Targeted Completion Date April 12, 1999 April 19, 1999
(driven by receipt of Building Permit)

Submit for Grading Permit² March 29, 1998 March 30, 1998
(add 90 days)
Receive Grading Permit June 29, 1998 July 7, 1998
Commence Construction Sitework July 6, 1998 July 14, 1998

1. Assumes a wetland buffer variance is not required or can be processed concurrently with Building Permit
If wetland buffer variance is required, DDES must process in same time frame as SEPA
2. This is the best opportunity to reduce time frame -- a Grading Permit should be available in a shorter time period than a Building Permit, thus potentially beginning site work earlier -- if the Construction Permit is then timely, overall schedule may be reduced

If Architect can shorten time for Construction Drawings, Lessor can submit earlier for Building Permit.
If weather cooperates, Sitework may be expedited.

Based on shared \$ savings from Guaranteed Maximum Price, Contractor motivated to complete in shortest possible time.

R. Abbott Construction Schedule 1/15/98

November			December				January				February				March				
11/8	11/15	11/22	11/29	12/6	12/13	12/20	12/27	1/3	1/10	1/17	1/24	1/31	2/7	2/14	2/21	2/28	3/7	3/14	3/21

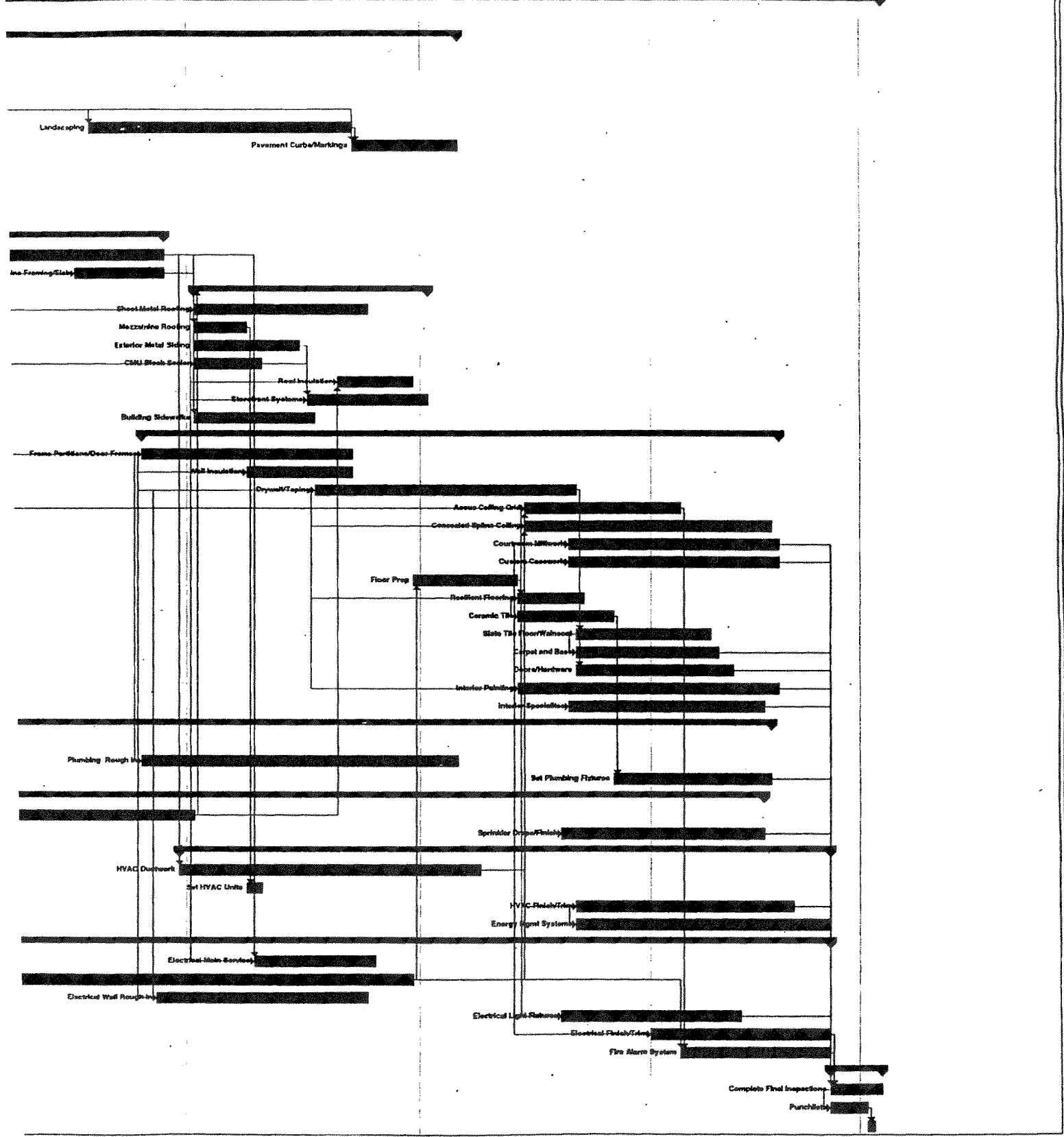


EXHIBIT H

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (the "Assignment"), entered into as of this ___ day of February, 1998, between Issaquah Courthouse, LLC, a Washington limited liability company (the "Developer") and First Trust National Association, as trustee (the "Trustee") under that certain Trust Agreement dated as of February ___, 1998 (the "Trust Agreement") between Trustee and the Developer, with the approval and consent of King County, Washington (the "County");

WITNESSETH

WHEREAS, the County and the Developer have entered into a certain Lease dated as of February ___, 1998, (the "Lease") for the lease by the County of certain real property legally described on Exhibit A hereto (the "Land") together with improvements thereon to be constructed by Developer (the "Improvements") (collectively, the "Lease Premises"); and

WHEREAS, Developer and the Trustee, as defined in the Trust Agreement, in cooperation with the County, have undertaken to provide for take out financing of the acquisition of the Land and construction of the Improvements by the issuance of certificates of participation (the "Certificates") in the Lease Payments (as such term is defined in the Lease) pursuant to the Trust Agreement; and

WHEREAS, the Developer has agreed to assign all of its right, title and interest in and to the Lease Payments to the Trustee for the benefit of the owners of the Certificates in exchange for the right to receive the Lease Transfer Amount (as such term is defined in the Trust Agreement) upon substantial completion of the Improvements in accordance with the Lease;

NOW, THEREFORE, the parties hereto agree as follows:

For good and valuable consideration, receipt of which is hereby acknowledged, the Developer hereby assigns and transfers, conveys and warrants to First Trust National Association, as Trustee under the Trust Agreement, all of Developer's right, title and interest in and to the Lease Payments under the Lease.

The Trustee hereby acknowledges that the Developer shall be entitled to receive the Lease Transfer Amount under the Trust Agreement at the time and on the terms and conditions set forth therein.

The right, title and interest in the Lease Payments as assigned shall be held under the Trust Agreement for the benefit of the owners from time to time of the Certificates delivered pursuant to the Trust Agreement. Trustee hereby agrees to and accepts such Assignment. The assignment hereunder to the Trustee is solely in its capacity as Trustee under the Trust Agreement, and the duties, powers and liabilities of the Trustee in acting hereunder shall be subject to the provisions of the Trust Agreement. The Developer also hereby delivers to the Trustee an original fully-executed Lease.

This Assignment is made without recourse against the Developer for any sum due or to become due under the Lease.

Developer acknowledges and agrees that from and after the date of this Assignment it shall have no right, title or interest in or to the Lease Payments. Developer shall retain all other rights and obligations as Lessor under the Lease from and after the date of this Assignment until the Lease Transfer Date (as such term is defined in the Trust Agreement).

This Assignment shall be governed by and construed and enforced in accordance with the laws of the state of Washington. The provisions of this Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

DATED this ___ day of February, 1998.

ISSAQUAH COURTHOUSE, LLC, a
Washington limited liability company, as
Developer

By _____
Title _____

FIRST TRUST NATIONAL
ASSOCIATION, as Trustee

By _____
Title _____

13023

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of FIRST TRUST NATIONAL ASSOCIATION that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute this document.

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

NOTARY PUBLIC in and for the State of
Washington, residing at _____
Print Name: _____
Residing at: _____
Commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared RONALD SIMS and ANNE NORIS, to me known to be the County Executive and Clerk of the County Council, respectively, of King County, who executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute this document.

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

NOTARY PUBLIC in and for the State of
Washington residing at _____
Print Name: _____
Residing at: _____

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Commission expires _____

Exhibit I
Architect's Contract

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EXHIBIT I
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AIA Document B141

Standard Form of Agreement Between Owner and Architect

1987 EDITION

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH
AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.*

AGREEMENT

made as of the Fifteenth day of April in the year of
Nineteen Hundred and Ninety Six

BETWEEN the Owner: Langly Associates, Inc.
(Name and address) 3633 136th Place Southeast, Suite 205
Bellevue, Washington 98006

and the Architect: Baylis Brand Wagner Architects, Inc.
(Name and address) 10801 Main Street
Bellevue, Washington 98004

For the following Project:

(Include detailed description of Project, location, address and scope.)

To construct a new District Courthouse building on the corner of 220th Avenue S.E. and S.E. 56th Street in Issaquah, Washington. The building will be one story, containing approximately 23,500 S.F. and be constructed of wood frame with masonry bearing walls and concrete slab floor. The project will include 3 Courtrooms, Clerk and Administrative Areas, Areas for Prosecution, Public Defenders and Probation.

The Owner and Architect agree as set forth below.

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TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT

ARTICLE 1**ARCHITECT'S RESPONSIBILITIES****1.1 ARCHITECT'S SERVICES**

1.1.1 The Architect's services consist of those services performed by the Architect, Architect's employees and Architect's consultants as enumerated in Articles 2 and 3 of this Agreement and any other services included in Article 12.

1.1.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Upon request of the Owner, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which may be adjusted as the Project proceeds, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner. 1

1.1.3 The services covered by this Agreement are subject to the time limitations contained in Subparagraph 11.5.1.

ARTICLE 2**SCOPE OF ARCHITECT'S BASIC SERVICES****2.1 DEFINITION**

2.1.1 The Architect's Basic Services consist of those described in Paragraphs 2.2 through 2.6 and any other services identified in Article 12 as part of Basic Services, ~~and include normal structural, mechanical, and electrical engineering services.~~
See Article 12.1.3 and 12.1.1

2.2 SCHEMATIC DESIGN PHASE

2.2.1 The Architect shall review the program furnished by the Owner to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner.

2.2.2 The Architect shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Subparagraph 5.2.1.

2.2.3 The Architect shall review with the Owner ²alternative approaches to design and construction of the Project.

2.2.4 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

~~2.2.5 The Architect shall submit to the Owner a preliminary estimate of Construction Cost based on current rates, volume or other unit costs.~~ See Article 12.1.2

2.3 DESIGN DEVELOPMENT PHASE

2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program,

schedule or construction budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

~~2.3.2 The Architect shall advise the Owner of any adjustments to the preliminary estimate of Construction Cost.~~
See Article 12.1.2

2.4 CONSTRUCTION DOCUMENTS PHASE

2.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

2.4.2 The Architect shall assist the Owner ³in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor.

2.4.3 The Architect shall advise the Owner of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.

2.4.4 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. 4

2.5 BIDDING OR NEGOTIATION PHASE

2.5.1 The Architect, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner ⁱⁿ obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.

2.6 CONSTRUCTION PHASE—ADMINISTRATION OF THE CONSTRUCTION CONTRACT

See Article 12.1.1

2.6.1 The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the Contract for Construction and terminates at the earlier of the issuance to the Owner ⁸of the final Certificate for Payment or 60 days after the date of Substantial Completion of the Work.

2.6.2 The Architect shall provide administration of the Contract for Construction as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement, unless otherwise provided in this Agreement. ^{as modified}

2.6.3 Duties, responsibilities and limitations of authority of the Architect shall not be restricted, modified or extended without written agreement of the Owner and Architect with consent of the Contractor, which consent shall not be unreasonably withheld.

1. and in no event shall Architect cause any delay in the orderly progress of the work.
2. and the Contractor ...
3. and the Contractor ...
4. The Architect shall keep the Contractor informed of any changes in requirements or in construction materials, systems or equipment as the drawings and specifications are developed so that the Contractor can adjust the estimate of construction costs appropriately.
5. and the Contractor ...
6. Owner's approval
7. It is understood that the General Conditions will be modified to conform to the provisions of this Agreement and those of the Owner-Contractor Agreement, which modification shall be subject to Architect's reasonable approval to the extent they may affect Architect's rights and responsibilities.

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2.6.4 The Architect shall be a representative of and shall advise and consult with the Owner (1) during construction until final payment to the Contractor is due, and (2) as an Additional Service at the Owner's direction from time to time during the correction period described in the Contract for Construction. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written instrument.

2.6.5 The Architect shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by the Owner and Architect in writing to become generally familiar with the progress and quality of the Work completed and to determine in general if the Work is being performed in a manner indicating that the Work when completed will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect shall keep the Owner informed of the progress and quality of the Work, and shall endeavor to guard the Owner against defects and deficiencies in the Work. *(More extensive site representation may be agreed to as an Additional Service, as described in Paragraph 3.2.)*

2.6.6 The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents. The Architect shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

2.6.7 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

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~~2.6.8 Except as may otherwise be provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall communicate through the Architect. Communications by and with the Architect's consultants shall be through the Architect.~~

2.6.9 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect shall review and certify the amounts due the Contractor.

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2.6.10 The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations at the site as provided in Subparagraph 2.6.5 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and the quality of Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or

quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

2.5.11 The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.

2.6.12 The Architect shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction of the Owner or of separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

2.6.13 The Architect shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Architect as provided in Subparagraphs 3.1.1 and 3.3.3, for the Owner's approval and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.

2.6.14 The Architect shall conduct inspections ¹⁵ determine the date or dates of Substantial Completion and the date of final completion, shall receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents. 17

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8. *Not used*
9. and the overall design concept.
10. in a written report.
11. Except as may be otherwise provided in the Contract Documents, Owner and Contractor shall keep the architect informed of all of their communications so that Architect can carry out its administration of the Contract for Construction.
12. which shall be recommendations only, subject to Owner's approval for payment.
13. and the overall design concept.
14. , subject to Owner's approval.
15. recommend to Owner ...
16. shall prepare for Owner a list of observed items, materials or systems that require replacement or additional work by Contractor ...
17. subject to Owner's approval.

2.6.15 The Architect shall interpret and/¹⁸decide matters concerning performance of the Owner and Contractor under the requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

2.6.16 Interpretations and/¹⁹decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial/²⁰decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or ²¹decisions so rendered in good faith.

~~2.6.17 The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.~~

2.6.18 The Architect shall render written/²²decisions within a reasonable time on all claims, disputes or other matters in question between the Owner and Contractor relating to the execution or progress of the Work as provided in the Contract Documents.

2.6.19 The Architect's/²³decisions on claims, disputes or other matters, including those in question between the Owner and Contractor, ~~except for those relating to aesthetic effect as provided in Subparagraph 2.6.17,~~ shall be subject to arbitration as provided in this Agreement and in the Contract Documents.

ARTICLE 3 ADDITIONAL SERVICES

3.1 GENERAL

3.1.1 The services described in this Article 3 are not included in Basic Services unless so identified in Article 12, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Paragraphs 3.2 and 3.4 shall only be provided if authorized or confirmed in writing by the Owner. If services described under Contingent Additional Services in Paragraph 3.3 are required due to circumstances beyond the Architect's control, the Architect shall notify the Owner prior to commencing such services. If the Owner deems that such services described under Paragraph 3.3 are not required, the Owner shall give prompt written notice to the Architect. If the Owner indicates in writing that all or part of such Contingent Additional Services are not required, the Architect shall have no obligation to provide those services.

3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

3.2.1 If more extensive representation at the site than is described in Subparagraph 2.6.5 is required, the Architect shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

3.2.2 Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as agreed by the Owner and Architect. The duties, responsibilities and limitations of authority of Project Representatives shall be as described in the edition of AIA Document B352 current as of the date of this Agreement, unless otherwise agreed.

3.2.3 Through the observations by such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement.

3.3 CONTINGENT ADDITIONAL SERVICES

3.3.1 Making revisions in Drawings, Specifications or other documents when such revisions are:

- .1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program or Project budget;
- .2 required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents; or
- .3 due to changes required as a result of the Owner's failure to render decisions in a timely manner.

3.3.2 Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under Subparagraph 5.2.5.

3.3.3 Preparing Drawings, Specifications and other documentation and supporting data, evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives. 24

3.3.4/²⁵Providing services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom. 25

3.3.5 Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.

3.3.6 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor/²⁶or by failure of performance of either the Owner or Contractor under the Contract for Construction. 28

3.3.7 Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work.

3.3.8 Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where the Architect is party thereto.

3.3.9 Preparing documents for alternate, separate or sequential bids or providing services in connection with bidding, negotiation or construction prior to the completion of the Construction Documents Phase.

3.4 OPTIONAL ADDITIONAL SERVICES

3.4.1 Providing analyses of the Owner's needs and programming the requirements of the Project. 29

3.4.2 Providing financial feasibility or other special studies.

3.4.3 Providing planning surveys, site evaluations or comparative studies of prospective sites. 30

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18. make recommendations to Owner ...
19. recommendations to Owner ...
20. recommendations to Owner ...
21. recommendations to Owner ...
22. recommendations to Owner ...
23. recommendations to Owner ...
24. requested by Owner that are not required due to errors or omissions of the Architect.
25. After the Construction Document phase and the Bidding & Negotiation phase have been completed.
26. unless such services are required due to errors or omissions of the Architect in which case such services shall be a part of Basic Services.
27. provided that the Architect shall fully document its discovery of the defect or deficiency as part of its Basic Services ...
28. , and except with respect to Architect's responsibilities relating to interpretation of documents, resolution of disputes, etc.
29. except to the extent included in Basic Services by the modifications to this Agreement.
30. except to the extent included in Basic Services by the modifications to this Agreement.

3.4.4 Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project. 31

3.4.5 Providing services relative to future facilities, systems and equipment. 32

3.4.6 Providing services to investigate existing conditions or facilities or to make measured drawings thereof.

3.4.7 Providing services to verify the accuracy of drawings or other information furnished by the Owner.

3.4.8 Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.

3.4.9 Providing services in connection with the work of a construction manager or separate consultants retained by the Owner. 33

3.4.10 Providing detailed estimates of Construction Cost.

3.4.11 Providing detailed quantity surveys or inventories of material, equipment and labor.

3.4.12 Providing analyses of owning and operating costs.

3.4.13 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

3.4.14 Providing services for planning tenant or rental spaces.

3.4.15 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

3.4.16 Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

3.4.17 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

3.4.18 Providing services after³⁵ issuance to the Owner of the final Certificate for Payment, or in the absence of a final Certificate for Payment, more than 60 days after the date of Substantial Completion of the Work.

3.4.19 Providing services of consultants ^{except as} ~~for other than architectural, structural, mechanical and electrical engineering portions of the Project~~ provided as a part of Basic Services.

3.4.20 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

4.2 The Owner shall establish and update an overall budget for the Project, including the Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.

~~4.3 If requested by the Architect, the Owner shall furnish evidence that financial arrangements have been made to fulfill the Owner's obligations under this Agreement.~~

4.4 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. 37

4.5 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

4.6 The Owner shall furnish the services of geotechnical engineers when such services are requested by the Architect. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations.

4.6.1 The Owner shall furnish the services of other consultants when such services are reasonably required by the scope of the Project and are requested by the Architect.

4.7 The Owner shall furnish structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents. 38

4.8 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the Owner.

4.9 The services, information, surveys and reports required by Paragraphs 4.5 through 4.8 shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

4.10 Prompt written notice shall be given by the Owner to the Architect if the Owner becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents. 39

4.11 The proposed language of certificates or certifications requested of the Architect or Architect's consultants shall be submitted to the Architect for review and approval at least 14 days prior to execution. The Owner shall not request certifications that would require knowledge or services beyond the scope of this Agreement.

ARTICLE 4

OWNER'S RESPONSIBILITIES

4.1 The Owner shall provide full information regarding requirements for the Project/including a program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

31. except to the extent included in Basic Services by the modifications to this Agreement.
32. except to the extent included in Basic Services by the modifications to this Agreement.
33. Providing services in connection with the work of separate consultants retained by the Owner, except with respect to Architect's responsibilities for Basic Services.
34. *Not used*
35. approval by ...
36. setting ...
37. It shall be the Architect's responsibility to timely advise Owner of all time requirements and restraints with respect to such approvals and decisions.
38. However, it shall be Architect's responsibility to determine when, which and to what extent such tests, inspections and reports not required by the building code may be necessary; and Architect shall advise Owner when, in its professional judgment, such special tests, inspection and reports, other than those required by Code, may be necessary.
39. ; provided, however, this paragraph shall apply only to such knowledge or fault or defect as may be obtained by Owner's representative as designated in Article 12 hereafter or his designee, and it is specifically understood that Owner shall have no obligation to investigate for the purpose of becoming aware of faults or defects. This is only with respect to such faults or defects as may come to the attention of said representative or his designee.

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ARTICLE 5

CONSTRUCTION COST

5.1 DEFINITION

See Article 12.1.2

5.1.1 The Construction Cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

5.1.2 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, plus a reasonable allowance for the Contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work during construction.

5.1.3 Construction Cost does not include the compensation of the Architect and Architect's consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in Article 4.

5.2 RESPONSIBILITY FOR CONSTRUCTION COST

5.2.1 Evaluations of the Owner's Project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Architect.

5.2.2 No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project budget, unless such fixed limit has been agreed upon in writing and signed by the parties hereto. If such a fixed limit has been established, the Architect shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit. Fixed limits, if any, shall be increased in the amount of an increase in the Contract Sum occurring after execution of the Contract for Construction.

5.2.3 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

5.2.4 If a fixed limit of Construction Cost (adjusted as provided in Subparagraph 5.2.3) is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall:

- .1 give written approval of an increase in such fixed limit;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;

.3 If the Project is abandoned, terminate in accordance with Paragraph 8.3; or

.4 cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

5.2.5 If the Owner chooses to proceed under Clause 5.2.4.4, the Architect, without additional charge, shall modify the Contract Documents as necessary to comply with the fixed limit, if established as a condition of this Agreement. The modification of Contract Documents shall be the limit of the Architect's responsibility arising out of the establishment of a fixed limit. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

ARTICLE 6

USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

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~~6.1 The Drawings, Specifications and other documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including reproducible copies, of the Architect's Drawings, Specifications and other documents for information and reference in connection with the Owner's use and occupancy of the Project. The Architect's Drawings, Specifications or other documents shall not be used by the Owner or others on other projects, for additions to this Project or for completion of this Project by others, unless the Architect is adjudged to be in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect.~~

~~6.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.~~

ARTICLE 7

ARBITRATION

7.1 Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise.

7.2 Demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.

7.3 ⁴² ~~No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement.~~

40. OWNERSHIP AND USE OF DOCUMENTS

- 40.1 All drawings and specifications prepared by Architect during the Design Development and Construction Document phases, but which are not included in the Contract Documents incorporated into the Agreement between Owner and Contractor (drawings and specifications prepared by Architect but excluded from the project prior to establishment of the Guaranteed Maximum Cost) shall remain the property of the Architect.
- 40.2 All other drawings and specifications prepared by Architect pursuant to this Agreement (drawings and specifications which become a part of the Contract Documents incorporated into the Agreement between Owner and Contractor) shall be the joint property of Owner and Architect, provided, however, the rights of ownership shall be limited as follows:
- 40.2.1 Owner may utilize the drawings and specifications with respect to construction, maintenance, repair and modification of the project.
- 40.2.2 Owner may utilize the drawings and specifications with respect to another project or projects pursuant to subparagraph 12.1.9 with respect to any other projects if: (a) Owner engages Architect to perform architectural services with respect thereto at a reduced fee to be negotiated, or (b) Owner engages another licensed architect with respect to said project and agrees to hold Architect harmless and indemnify Architect from any claims arising out of Owner's subsequent use of said drawings and specifications.
- 40.2.3 Architect may utilize any of the constituent parts of the drawings and specifications on any other project except for any unique or distinctive architectural components or effects which taken independently or in combination would produce a project with substantially similar and distinctive features.
41. and parties to be joined ...
42. Any and all arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or joint filing, any additional person or entity not a party to this Agreement to the extent necessary to the final resolution of the matter in controversy. Owner shall include an arbitration and consolidation provision in the Owner-Contractor Agreement and shall provide that similar provisions be included in subcontracts and Purchase Orders. This agreement to arbitrate and any agreement to arbitrate with an additional person or persons duly consented to by the parties to this Agreement shall be specifically enforceable under the prevailing arbitration law.
43. In addition and prior to arbitration, the parties shall endeavor to settle disputes by mediation under the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Mediation shall commence, unless otherwise agreed, within the same time limits stipulated in subparagraphs 2.2.12 and 7.9 for the filing of a notice of a claim in arbitration. Such time limits shall then be extended for arbitration by ten days and the duration of the mediation process.

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~~except by written consent containing a specific reference to this Agreement signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~... ten percent of the total compensation earned to date if termination occurs during the Design Development Phase; or
3 Five percent of the total compensation for Basic and Additional Services earned to date if termination occurs during any subsequent phase.~~

7.4 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

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ARTICLE 8

TERMINATION, SUSPENSION OR ABANDONMENT

8.1 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

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8.2 If the Project is suspended by the Owner for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Architect's services.

8.3 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect in the event that the Project is permanently abandoned. If the Project is abandoned by the Owner for more than 90 consecutive days, the Architect may terminate this Agreement by giving written notice.

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8.4 Failure of the Owner to make payments to the Architect in accordance with this Agreement shall be considered substantial nonperformance and cause for termination.

8.5 If the Owner fails to make payment when due the Architect for services and expenses, the Architect may, upon seven days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services.

8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Paragraph 8.7.

~~8.7 Termination Expenses are in addition to compensation for Basic and Additional Services, and include expenses which are directly attributable to termination. Termination Expenses shall be computed as a percentage of the total compensation for Basic Services and Additional Services earned to the time of termination, as follows:~~

- ~~.1 Twenty percent of the total compensation for Basic and Additional Services earned to date if termination occurs before or during the pre-design, site analysis, or Schematic Design Phases; or~~

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 Unless otherwise provided, this Agreement shall be governed by the law of the principal place of business of the Architect. 47

9.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

~~9.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. 48~~

9.4 The Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, but only to the extent covered by property insurance during construction, ~~except such rights as they may have to the proceeds of such insurance set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.~~ The Owner and Architect each shall require similar waivers from their contractors, consultants and agents.

9.5 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Architect shall assign this Agreement without the written consent of the other. 49

9.6 This Agreement represents the entire and integrated agreement between the Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

9.7 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

9.8 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

9.9 The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's promotional and professional materials. The Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of

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44. 7.5 At Owner's option, the location for settlement of any and all claims, controversies or disputes arising out of or related to this Agreement or any breach thereof whether by arbitration or litigation shall be King County, Washington.
45. 60 days ...
46. without cause immediately upon notice to the Architect unless otherwise provided in said notice.
47. State of Washington.
48. So long as their respective insurance carriers permit, ...
49. , except that Owner may assign this Agreement to any affiliated party provided that Owner shall nevertheless continue to be responsible for payment for all Basic Services and Additional Services incurred through the date of such assignment and Basic Services and Additional Services incurred thereafter shall be the sole responsibility of such affiliated party.

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the specific information covered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect on the construction sign and in the promotional materials for the Project.

ARTICLE 10

PAYMENTS TO THE ARCHITECT

10.1 DIRECT PERSONNEL EXPENSE

10.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

10.2 REIMBURSABLE EXPENSES

10.2.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and Architect's employees and consultants in the interest of the Project, as identified in the following Clauses.

10.2.1.1 Expense of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the Project.

10.2.1.2 Expense of reproductions, postage and handling of Drawings, Specifications and other documents. 50

10.2.1.3 If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates.

10.2.1.4 Expense of renderings, models and mock-ups requested by the Owner. 51

10.2.1.5 Expense of additional insurance coverage or limits, including professional liability insurance, requested by the Owner in excess of that normally carried by the Architect and Architect's consultants. 52

10.2.1.6 Expense of computer-aided design and drafting equipment time when used in connection with the Project.

10.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES

10.3.1 An initial payment as set forth in Paragraph 11.1 is the minimum payment under this Agreement.

10.3.2 Subsequent payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Subparagraph 11.2.2.

10.3.3 If and to the extent that the time initially established in Subparagraph 11.5.1 of this Agreement is exceeded or extended through no fault of the Architect, compensation for any services rendered during the additional period of time shall be computed in the manner set forth in Subparagraph 11.3.2.

~~10.3.4 When compensation is based on a percentage of Construction Cost and any portions of the Project are deleted or otherwise not constructed, compensation for these portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Subparagraph 11.2.2, based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent preliminary estimate of Construction Cost or detailed estimate of Construction Cost for such portions of the Project.~~

10.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

10.4.1 Payments on account of the Architect's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

10.5 PAYMENTS WITHHELD

10.5.1 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been found to be liable.

10.6 ARCHITECT'S ACCOUNTING RECORDS

10.6.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times. 54

ARTICLE 11

BASIS OF COMPENSATION

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The Owner shall compensate the Architect as follows:

11.1 AN INITIAL PAYMENT of Zero Dollars (\$ -0-) shall be made upon execution of this Agreement and credited to the Owner's account at final payment.

11.2 BASIC COMPENSATION

11.2.1 FOR BASIC SERVICES, as described in Article 2, and any other services included in Article 12 as part of Basic Services, Basic Compensation shall be computed as follows:

(Insert basis of compensation, including stipulated sums, multiples or percentages, and identify phases to which particular methods of compensation apply, if necessary.)

Hourly per rates and multiples shown in Article 11.3.2 to maximum of \$120,000. Maximum includes fees paid by county thru Richard Wayne. *Richard Wayne*

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50. excluding reproductions for the office use of Architect.
51. except to the extent included in the Basic Services by the modifications to this Agreement.
52. except to the extent included in the Basic Services by the modifications to this Agreement.
53. submitted to Owner on a monthly basis and ...
54. for not less than four (4) years following completion of the work.

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11.2.2 Where compensation is based on a stipulated sum or percentage of Construction Cost, progress payments for Basic Services in each phase shall total the following percentages of the total Basic Compensation payable:

(Insert additional phases as appropriate.)

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N/A

Schematic Design Phase:	percent (%)
Design Development Phase:	percent (%)
Construction Documents Phase:	percent (%)
Bidding or Negotiation Phase:	percent (%)
Construction Phase:	percent (%)

Total Basic Compensation: one hundred percent (100%)

11.3 COMPENSATION FOR ADDITIONAL SERVICES

11.3.1 FOR PROJECT REPRESENTATION BEYOND BASIC SERVICES, as described in Paragraph 3.2, compensation shall be computed as follows:

N/A

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11.3.2 FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Articles 3 and 12, other than (1) Additional Project Representation, as described in Paragraph 3.2, and (2) services included in Article 12 as part of Basic Services, but excluding services of consultants, compensation shall be computed as follows:

(Insert basis of compensation, including rates and/or multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply, if necessary.)

Principals: El Baylis	\$105 Per Hour
Brian Brand	\$105 Per Hour
Richard Wagner	\$105 Per Hour
Tom Frye, Jr.	\$105 Per Hour

Non-CADD Related Technical Personnel: 2.5 times Direct Personnel Expense
CADD-Related Technical Personnel: 2.75 times Direct personnel Expense
Administrative Audits: \$30 per hour

11.3.3 FOR ADDITIONAL SERVICES OF CONSULTANTS, including additional structural, mechanical and electrical engineering services and those provided under Subparagraph 3.4.19 or identified in Article 12 as part of Additional Services, a multiple of one point one five (1.15) times the amounts billed to the Architect for such services.

(Identify specific types of consultants in Article 12, if required.)

11.4 REIMBURSABLE EXPENSES

11.4.1 FOR REIMBURSABLE EXPENSES, as described in Paragraph 10.2, and any other items included in Article 12 as Reimbursable Expenses, a multiple of one point one five (1.15) times the expenses incurred by the Architect, the Architect's employees and consultants in the interest of the Project.

11.5 ADDITIONAL PROVISIONS

11.5.1 IF THE BASIC SERVICES covered by this Agreement have not been completed within twenty four (24) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Subparagraphs 10.3.3 and 11.3.2.

11.5.2 Payments are due and payable thirty (30) days from the date of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of interest agreed upon.) One and one-half (1½%) percent per month, compounded monthly.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

11.5.3 The rates and multiples set forth for Additional Services shall be annually adjusted in accordance with normal salary review practices of the Architect.

ARTICLE 12
OTHER CONDITIONS OR SERVICES

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(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Agreement.)

12.1 The Architect's basic services shall include tenant improvement drawings including layout of courtrooms, Judges' chambers, clerk's areas, areas for Public Defender, probation and prosecution, storage and workroom areas. Further, Architect shall include selection of finishes and materials. Architect's services do not include furniture plan, furniture selection, specification or purchase, or any furniture inventory of existing fixtures and furniture.

12.1.1 Services provided by the Architect have been tailored to accommodate the Owner's decision to retain a General Contractor competent in the construction of the proposed work. The General Contractor will be retained shortly after the commencement of the Architect's work. During Schematic, Design, Construction Document, and Negotiating Phases. The Architect will assist Owner in evaluation of these subcontractor proposals and will thoroughly coordinate his work in the Construction Documents phase with mechanical drawings and other submittals prepared by others. Architect will not be responsible or liable for adequacy or accuracy of drawings and other submittals not prepared by him or his consultants.

Construction Phase Services: The Architect has included in Construction Phase Services time for answering telephone calls, checking shop drawings, communication with the Owner and Contractor, preparation of clarification details and payment request review and periodic site visits.

12.1.2 Statement of Probable Costs of Construction shall be the responsibility of the Owner's General Contractor, shall be updated throughout the project and shall be available as a design tool for the Architect's use. Architect shall coordinate his work with Contractor during Design Development and Construction Document phases.

12.1.3 The Owner shall be responsible to retain the full services of a Structural Engineer, Electrical Engineer and Landscape Architect through the Construction phase. The Owner shall retain separately a Mechanical Engineer for establishing design criteria for design-bid subcontractor proposals and evaluation of all proposals received.

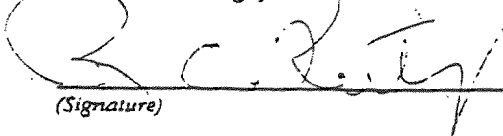
Owner shall retain separately a Structural Engineer, Landscape Architect, Soils Engineer, Civil Engineer, Electrical Engineer, Mechanical Engineer, courtroom consultant and other consultants as appropriate. Architect will provide a parking and rough grading plan to Civil Engineer for his use and will coordinate architectural work with work of Owner consultants. Architect will not be responsible for adequacy or accuracy of drawings and other submittals not prepared by him.

12.1.4 In the event either party to this Agreement is required to initiate or defend arbitration or litigation against the other party arising out of or relating to this Agreement, or the work to be performed hereunder, or any relation created hereby, then the prevailing party in such litigation shall, in addition to other remedies, be entitled to reasonable attorney's fees, including recovery costs and attorney's fees on any appeal.

CONTINUED

This Agreement entered into as of the day and year first written above.

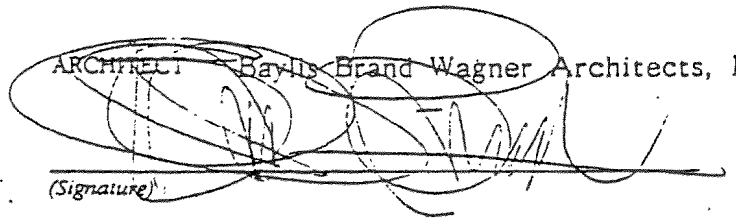
OWNER Langly Associates


(Signature)

Russ Keithly

(Printed name and title)

ARCHITECT Baylis Brand Wagner Architects, Inc.


(Signature)

Brian Brand, Vice President

(Printed name and title)



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- 12.1.5 The Owner will endeavor to notify the Architect within thirty (30) days from the date of the mailing of the billing if any particular item appears to be incorrect.
- 12.1.6 Except as may be otherwise provided in the Contract Documents or when direct communications have been specifically authorized, all communications between Architect and the subcontractor and material suppliers of Contractor shall be through the Contractor. The parties intend for there to be one prime contractor.
- 12.1.7 The Architect shall provide services in connection with alternative designs for cost estimating only during Schematic Design and Design Development phases. Once Design Development is complete and approved, all major alternatives shall be Additional Services.
- 12.1.8 The Architect shall furnish the Construction Lender and Permanent Lender for the Project with such approvals, certifications and assurances as may be requested by such lender to establish (i) the assignment of this agreement to such lenders for security purposes; (ii) the identify of all plans and specifications for the Project prepared by Architect; (iii) that the Architect has exercised a standard of care prevalent in the industry in preparing Construction Documents and he has used his best judgment in applying governing codes, ordinances and regulations to this Project; and (iv) if Borrower (the Owner) defaults under this agreement, Architect will furnish such lenders with notice of such default required under this agreement specifying the default and the steps necessary to cure the same; and if Borrower fails to timely cure said default, Architect shall give such lenders an additional thirty days written notice of such default and opportunity to cure such default.
- 12.1.9 If Owner retains a separate Construction Manager which is not the prime contractor, Architect shall inform said Construction Manager and consult with it about the design of the Project and the progress of the Work so that said Construction Manager can carry out its responsibility. the duties, responsibilities and limitations of authority of said Construction Manager shall be described in AIA Document B801 current as of the date of this Agreement and, any modifications to this form shall be subject to Architect's reasonable approval to the extent they may affect Architect's rights and responsibilities.
- 12.2 Owner shall be represented by Russ Keithly, unless notification is otherwise given in writing. Owner's representative is the party empowered by Owner to receive all notices and communications and to act in all respects for the Owner to the extent of Owner's responsibilities herein.
- 12.3 Architect shall be represented by Brian R. Brand, AIA, unless notification is otherwise given in writing. Architect's representative is the party empowered by Architect to receive all notices and communications and to act in all respects for the Architect to the extent of Architect's responsibilities herein.
- 12.4 Architect and its engineering consultants shall each file with Owner a certificate of Errors and Omissions Insurance. Such Certificates shall bear the endorsement "Not to be canceled without thirty (30) days prior notice to Owner and Construction lender." Architect and its consultants shall each maintain separate errors and omissions insurance policies, each policy having limit of not less than \$500,000 coverage and a deductible of not more than \$25,000.00 for six years following substantial completion of the Project, provided, however, that such coverage (or greater amounts as requested by Owner) (i) is available to Architect and (ii) the premiums for such coverage are reasonable. Premiums will be considered reasonable if they do not exceed 125% of current premiums, plus an additional increase equal to changes in the Consumer Price Index (All Urban Consumers) published by the U.S. Department of Labor. Owner may elect to pay premiums in excess of reasonable premium levels. Architect and each of its engineering consultants shall also provide Worker's Compensation, valuable papers, automobile and comprehensive general liability policies with policy limits and deductibles subject to Owner's review and approval; and upon request, Architect shall deliver the insurance certificates for such insurance to Owner and Construction lender. Errors and omissions insurance beyond the limits of coverage described herein can be provided to the Owner if the Owner so wishes and agrees to compensate the Architect and its engineering consultants for the amount of additional premiums. If such additional coverage is desired, the Owner shall notify the Architect in writing concurrent with the execution of this Agreement. If such additional coverage is not requested by the Owner, the Owner agrees to limit the liability of Architect and its engineering consultants to the Owner, its heirs and/or assigns, due to any negligent acts, errors, or omissions, such that the total aggregate liability of each design professional to all those named shall not exceed \$500,000 per occurrence.
- 12.5 Architect shall provide its services and obligations in conformity with the standards of care and skill of its profession. It is understood that Owner will include in the Construction Documents and Owner-Contractor Agreement, provisions describing Architect's role as stated in this Agreement with respect to construction.
- 12.6 Direct Personnel Expense is defined as the direct Salaries and the portion of the cost of mandatory and customary contributions and benefits related thereto. For purposes of this Agreement, Direct Personnel Expense shall be computed at 1.25 times hourly wages or salaries.
- 12.7 The maximum fee indicated in Article 11.2.1 includes architectural services only previously billed but does not include any reimbursable expenses or reimbursable consultant fees which are in addition to the maximum.

CERTIFICATE OF SUBSTANTIAL COMPLETION

AIA DOCUMENT G704

(Instructions on reverse side)

OWNER

ARCHITECT

CONTRACTOR

FIELD

OTHER

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PROJECT:
(Name and address)

PROJECT NO.:

CONTRACT FOR:
CONTRACT DATE:

TO OWNER:
(Name and address)

TO CONTRACTOR:
(Name and address)

DATE OF ISSUANCE:
PROJECT OR DESIGNATED PORTION SHALL INCLUDE:

*INCLUDING, AT A MINIMUM,
THE ELEMENTS DESCRIBED
IN ATTACHMENT "A"*

The Work performed under this Contract has been reviewed and found, to the Architect's best knowledge, information and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion thereof designated above is hereby established as

which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

A list of items to be completed or corrected is attached hereto. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

ARCHITECT BY _____ DATE _____

The Contractor will complete or correct the Work on the list of items attached hereto within _____ days from the above date of Substantial Completion.

CONTRACTOR BY _____ DATE _____

The Owner accepts the Work or designated portion thereof as substantially complete and will assume full possession thereof at _____ (date) on _____ (date).

OWNER BY _____ DATE _____

The responsibilities of the Owner and the Contractor for security maintenance, heat, utilities, damage to the Work and insurance shall be as follows:
(Note—Owner's and Contractor's legal and insurance counsel should determine and review insurance requirements and coverage.)



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Attachment "A"

"Substantial Completion" means that the Improvements have been constructed in substantial accordance with the Construction Documents, including:

- (a) all elements required for the functioning of the Improvements shall be operational and in good working order and condition including satisfying applicable American With Disabilities Act building requirements as set forth in the Chapter 51-30 of the Washington Administrative Code ("WAC");
- (b) the Improvements shall be weather tight and waterproof;
- (c) the fire and life safety systems within the Improvements shall be operational and in good working order and condition;
- (d) the mechanical and electrical systems, including the HVAC system shall be individually tested and in good working order able to support the Improvements and shall also be tested to assure that the Improvement's systems operate on an integrated basis, but the HVAC system may still require final balancing work;
- (e) the finish work is substantially completed, including, but not limited to public lobby, HVAC, plumbing, fire and life safety, sprinkler and electrical systems, doors, partitions, cabinetry, carpet and base, including removal of all construction debris;
- (f) all site utilities, sidewalks and landscaping are substantially completed and construction barricades and equipment have been removed; and
- (g) the access and security systems for the Improvements are installed and operational;

except in each case minor punch list items that do not materially affect use and occupancy of the Improvements for a district courthouse.

Exhibit J

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General Contractor's Contract

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**Standard Form of Agreement Between
Owner and Contractor where the basis of payment is
the Cost of the Work Plus a Fee with or
without a Guaranteed Maximum Price **13023**
AIA Document A111 - Electronic Format**

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES: CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

The 1987 Edition of AIA Document A201, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified. This document has been approved and endorsed by The Associated General Contractors of America.

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AGREEMENT

made as of the 21st day of January in the year of Nineteen Hundred and Ninety-eight.

BETWEEN the Owner:

(Name and address)

LANGLY ASSOCIATES, INC.
3633 136th Place Southeast
Bellevue, Washington 98006

and the Contractor:

(Name and address)

J.R. ABBOTT CONSTRUCTION INC.
Post Office Box 84048
Seattle, Washington 98124

the Project is:

(Name and address)

KING COUNTY DISTRICT COURT
Southeast 56th Street / East Lake Sammamish Parkway
Issaquah, Washington 98027

the Architect is:

(Name and address)

BAYLIS, BRAND, WAGNER ARCHITECTS
10801 Main Street, Suite 110
Bellevue, Washington 98004

The Owner and Contractor agree as set forth below.

AIA DOCUMENT A111 - OWNER-CONTRACTOR AGREEMENT - TENTH EDITION - AIA - COPYRIGHT 1987 - THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE N.W., WASHINGTON D.C. 20006-5292. Unlicensed photocopying violates U.S. copyright laws and is subject to legal prosecution. This document was electronically produced with permission of the AIA and can be reproduced without violation until the date of expiration as noted below.

Electronic Format A111-1987

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ARTICLE 1
THE CONTRACT DOCUMENTS

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1.1 The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 16. If anything in the other Contract Documents is inconsistent with this Agreement, this Agreement shall govern.

ARTICLE 2
THE WORK OF THIS CONTRACT

2.1 The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

ARTICLE 3
RELATIONSHIP OF THE PARTIES

3.1 The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and utilize the Contractor's best skill, efforts and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to make best efforts to furnish at all times an adequate supply of workers and materials; and to perform the Work in the best way and most expeditious and economical manner consistent with the interests of the Owner. The Owner agrees to exercise best efforts to enable the Contractor to perform the Work in the best way and most expeditious manner by furnishing and approving in a timely way information required by the Contractor and making payments to the Contractor in accordance with requirements of the Contract Documents.

ARTICLE 4
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4.1 The date of commencement is the date from which the Contract Time of Subparagraph 4.2 is measured; it shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The Date of Commencement shall be seven (7) days after a Notice to Proceed is issued by the Owner. A Notice to Proceed can only be issued after the Contract is fully executed and all necessary permits are issued.

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit timely filing of mortgages, mechanic's liens and other security interests.

4.2 The Contractor shall achieve Substantial Completion of the entire Work not later than

(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)

seven months after Date of Commencement.

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)

ARTICLE 5

5.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum consisting of the Cost of the Work as defined in Article 7 and the Contractor's Fee determined as follows:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee, and explain how the Contractor's Fee is to be adjusted for changes in the Work.)

A fee of five percent (5%) of the Cost of the Work (as defined in Article 7) and for additional changes in the work (as defined in Article 6). For deductive changes in the work zero fee will be deducted.

5.2 GUARANTEED MAXIMUM PRICE (IF APPLICABLE)

5.2.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed Dollars (\$), subject to additions and deductions by Change Order as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

(Insert specific provisions if the Contractor is to participate in any savings.)

The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed Two Million Three Hundred Twenty Five Thousand Dollars (\$2,325,000), hereafter referred to as the "Original Guaranteed Maximum Price". During the period between execution of this Agreement and Owner's Notice to Proceed, the Original Guaranteed Maximum Price will be decreased by the net aggregate of any savings based on actual bids or subcontracts that are less than those projected amounts on the Cost of the Work from which the above Original Guaranteed Maximum Price was developed. The price will thereafter be identified as the Guaranteed Maximum Price", and will be incorporated into this Agreement by Change Order. The Guaranteed Maximum Price will not be increased above the Original Guaranteed Maximum Price during the period between execution of this Agreement and the Owner's Notice to Proceed unless there is a change in the requirements of the project. However, the Guaranteed Maximum Price will be subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

In the event the total Cost of the Work and the Contractor's fee is less than the agreed Guaranteed Maximum, as adjusted for agreed Change Orders, such savings shall be shared seventy-five percent (75%) thereof for the account of the Owner and twenty-five percent (25%) thereof for the account of the Contractor as an additional incentive fee.

5.2.2 The Guaranteed Maximum Price is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates, but only if a Guaranteed Maximum Price is inserted in Subparagraph 5.2.1. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)

5.2.3 The amounts agreed to for unit prices, if any, are as follows:

(State unit prices only if a Guaranteed Maximum Price is inserted in Subparagraph 5.2.1.)

**ARTICLE 6
CHANGES IN THE WORK**

6.1 CONTRACTS WITH A GUARANTEED MAXIMUM PRICE

6.1.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Subparagraph 7.3.3 of the General Conditions.

6.1.2 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Clause 7.3.3.3 of the General Conditions and the terms "costs" and "a reasonable allowance for overhead and profit" as used in Subparagraph 7.3.6 of the General Conditions shall have the meanings assigned to them in the General Conditions and shall not be modified by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

6.1.3 In calculating adjustments to this Contract, the terms "cost" and "costs" as used in the above-referenced provisions of the

General Conditions shall mean the Cost of the Work as defined in Article 7 of this Agreement and the terms "fee" and "a reasonable allowance for overhead and profit" shall mean the Contractor's Fee as defined in Paragraph 5.1 of this Agreement.

6.2 CONTRACTS WITHOUT A GUARANTEED MAXIMUM PRICE

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6.2.1 Increased costs for the items set forth in Article 7 which result from changes in the Work shall become part of the Cost of the Work, and the Contractor's Fee shall be adjusted as provided in Paragraph 5.1.

6.3 ALL CONTRACTS

6.3.1 If no specific provision is made in Paragraph 5.1 for adjustment of the Contractor's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Paragraph 5.1 will cause substantial inequity to the Owner or Contractor, the Contractor's Fee shall be equitably adjusted on the basis of the Fee established for the original Work.

ARTICLE 7 COSTS TO BE REIMBURSED

7.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior written consent of the Owner. The Cost of the Work shall include only the items set forth in this Article 7.

7.1.1 LABOR COSTS

7.1.1.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's agreement, at off-site workshops.

~~7.1.1.2 Wages or salaries of the Contractor's supervisory and administrative personnel and Project Manager and Project Engineer for time devoted exclusively to this Project regardless of their location, when stationed at the site with the Owner's agreement.~~

(If it is intended that the wages or salaries of certain personnel stationed at the Contractor's principal or other offices shall be included in the Cost of the Work, identify in Article 14 the personnel to be included and whether for all or only part of their time.)

7.1.1.3 Wages and salaries of the Contractor's supervisory or administrative personnel engaged, at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

7.1.1.4 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Clauses 7.1.1.1 through 7.1.1.3.

7.1.2 SUBCONTRACT COSTS

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts.

7.1.3 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION

7.1.3.1 Costs, including transportation, of materials and equipment incorporated or to be incorporated in the completed construction.

7.1.3.2 Costs of materials described in the preceding Clause 7.1.3.1 in excess of those actually installed but required to provide reasonable allowance for waste and for spoilage. Unused excess materials, if any, shall be handed over to the Owner at the completion of the Work or, at the Owner's option, shall be sold by the Contractor; amounts realized, if any, from such sales shall be

credited to the Owner as a deduction from the Cost of the Work.

7.1.4 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES AND RELATED ITEMS

7.1.4.1 Costs, including transportation, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by the Contractor at the site and fully consumed in the performance of the Work; and cost less salvage value on such items if not fully consumed, whether sold to others or retained by the Contractor. Cost for items previously used by the Contractor shall mean fair market value.

7.1.4.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by the Contractor at the site, whether rented from the Contractor or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of equipment rented shall be subject to the Owner's prior approval.

7.1.4.3 Costs of removal of debris from the site.

7.1.4.4 Costs of telegrams and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

7.1.4.5 That portion of the reasonable travel and subsistence expenses of the Contractor's personnel incurred while traveling in discharge of duties connected with the Work.

7.1.5 MISCELLANEOUS COSTS

7.1.5.1 That portion directly attributable to this Contract of premiums for insurance and bonds.

7.1.5.2 Sales, use or similar taxes imposed by a governmental authority which are related to the Work and for which the Contractor is liable.

7.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Contractor is required by the Contract Documents to pay.

7.1.5.4 Fees of testing laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Subparagraph 13.5.3 of the General Conditions or other provisions of the Contract Documents and which do not fall within the scope of Subparagraphs 7.2.2 through 7.2.4 below.

7.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement by the Contract Documents; payments made in accordance with legal judgments against the Contractor resulting from such suits or claims and payments of settlements made with the Owner's consent; provided, however, that such costs of legal defenses, judgment and settlements shall not be included in the calculation of the Contractor's Fee or of a Guaranteed Maximum Price, if any, and provided that such royalties, fees and costs are not excluded by the last sentence of Subparagraph 3.17.1 of the General Conditions or other provisions of the Contract Documents.

7.1.5.6 Deposits lost for causes other than the Contractor's fault or negligence.

7.1.6 OTHER COSTS

7.1.6.1 Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by the Owner.

7.2 EMERGENCIES: REPAIRS TO DAMAGED, DEFECTIVE OR NONCONFORMING WORK

The Cost of the Work shall also include costs described in Paragraph 7.1 which are incurred by the Contractor:

7.2.1 In taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Paragraph 10.3 of the General Conditions.

7.2.2 In repairing or correcting Work damaged or improperly executed by construction workers in the employ of the Contractor, provided such damage or improper execution did not result from the fault or negligence of the Contractor or the Contractor's foremen, engineers or superintendents, or other supervisory, administrative or managerial personnel of the Contractor.

7.2.3 In repairing damaged Work other than that described in Subparagraph 7.2.2, provided such damage did not result from the fault or negligence of the Contractor or the Contractor's personnel, and only to the extent that the cost of such repairs is not recoverable by the Contractor from others and the Contractor is not compensated therefor by insurance or otherwise.

7.2.4 In correcting defective or nonconforming Work performed or supplied by a Subcontractor or material supplier and not corrected by them, provided such defective or nonconforming Work did not result from the fault or neglect of the Contractor or the Contractor's personnel adequately to supervise and direct the Work of the Subcontractor or material supplier, and only to the extent that the cost of correcting the defective or nonconforming Work is not recoverable by the Contractor from the Subcontractor or material supplier.

ARTICLE 8 COSTS NOT TO BE REIMBURSED

8.1 The Cost of the Work shall not include:

8.1.1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Clauses 7.1.1.2 and 7.1.1.3 or as may be provided in Article 14.

8.1.2 Expenses of the Contractor's principal office and offices other than the site office.

8.1.3 Overhead and general expenses, except as may be expressly included in Article 7.

8.1.4 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work.

8.1.5 Rental costs of machinery and equipment, except as specifically provided in Clause 7.1.4.2.

8.1.6 Except as provided in Subparagraphs 7.2.2 through 7.2.4 and Paragraph 13.5 of this Agreement, costs due to the fault or negligence of the Contractor, Subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including but not limited to costs for the correction of damaged, defective or nonconforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied, and making good damage to property not forming part of the Work.

8.1.7 Any cost not specifically and expressly described in Article 7.

8.1.8 Costs which would cause the Guaranteed Maximum Price, if any, to be exceeded.

ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

9.1 Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included them in an Application for Payment and received payment therefor from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be secured.

9.2 Amounts which accrue to the Owner in accordance with the provisions of Paragraph 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work, ~~and shall deliver such bids to the Architect.~~ The ~~Owner Contractor~~ will then determine, with the ~~advice~~ consent of the ~~Contractor~~ Owner and subject to the reasonable objection of the Architect, which bids will be accepted, and copies of these bids in excess of Ten Thousand Dollars will be provided to the Owner. The Owner may designate specific persons or entities from whom the Contractor shall obtain bids; however, if a Guaranteed Maximum Price has been established, the Owner may not prohibit the Contractor from obtaining bids from others. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

10.2 If a Guaranteed Maximum Price has been established and a specific bidder ~~among those whose bids are delivered by the Contractor to the Architect~~ (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid which conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted; then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

10.3 Subcontracts or other agreements shall conform to the payment provisions of Paragraphs 12.7 and 12.8, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner.

ARTICLE 11 ACCOUNTING RECORDS

11.1 The Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's accountants shall be afforded access to the Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Contract, and the Contractor shall preserve these for a period of ~~three~~ six years after final payment, or for such longer period as may be required by law.

ARTICLE 12 PROGRESS PAYMENTS

12.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

12.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

12.3 Provided an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment to the Contractor not later than the twentieth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than twenty days after the Architect receives the Application for Payment.

12.4 As requested by Owner. With each Application for Payment the Contractor shall submit payrolls, petty cash accounts, receipts invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment; plus (4) retainage provided in Subparagraph 12.5.4, if any, applicable to prior progress payments.

12.5 CONTRACTS WITH A GUARANTEED MAXIMUM PRICE

12.5.1 Each Application for Payment shall be based upon the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Contractor's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

12.5.2 Applications for Payment shall show the percentage completion of each portion of the Work as of the end of the period covered by the Application for Payment. Progress payments shall be submitted on forms similar to AIA documents A702 and G703. The percentage completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed or (2) the percentage obtained by dividing (a) the expense which has actually been incurred by the Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

12.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

12.5.3.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions, even though the Guaranteed Maximum Price has not yet been adjusted by Change Order.

12.5.3.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing.

12.5.3.3 Add the Contractor's Fee, less retainage of five percent (5%) on all the aggregate of the work. The Contractor's Fee shall be computed upon the Cost of the Work described in the two preceding Clauses at the rate stated in Paragraph 5.1, ~~or, if the Contractor's Fee is stated as a fixed sum in that Paragraph, shall be an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work in the two preceding Clauses bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

12.5.3.4 Subtract the aggregate of previous payments made by the Owner.

12.5.3.5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Paragraph 12.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's accountants in such documentation.

12.5.3.6 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

12.5.4 Additional retainage, if any, shall be as follows:

III it is intended to retain additional amounts from progress payments to the Contractor beyond (1) the retainage from the Contractor's Fee provided in Clause 12.5.3.3, (2) the retainage from Subcontractors provided in Paragraph 12.7 below, and (3) the retainage, if any, provided by other provisions of the Contract, insert provision for such additional retainage here. Such provision, if made, should also describe any arrangement for limiting or reducing the amount retained after the

12.6 CONTRACTS WITHOUT A GUARANTEED MAXIMUM PRICE

~~12.6.1 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~12.6.2 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

~~12.6.2.1 Take the Cost of the Work as described in Subparagraph 12.6.1.~~

~~12.6.2.2 Add the Contractor's Fee, less retainage of percent (%). The Contractor's Fee shall be computed upon the Cost of the Work described in the preceding Clause 12.6.2.1 at the rate stated in Paragraph 5.1 or, if the Contractor's Fee is stated as a fixed sum in that Paragraph, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work in the preceding Clause bears to a reasonable estimate of the probable Cost of the Work upon its completion.~~

~~12.6.2.3 Subtract the aggregate of previous payments made by the Owner.~~

~~12.6.2.4 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Paragraph 12.4 or to substantiate prior Applications for Payment or resulting from errors subsequently discovered by the Owner's accountants in such documentation.~~

~~12.6.2.5 Subtract amounts, if any, for which the Architect has withheld or withdrawn a Certificate for Payment as provided in the Contract Documents.~~

~~12.6.3 Additional retainage, if any, shall be as follows:~~

~~12.7 Except with the Owner's prior approval, payments to Subcontractors included in the Contractor's Applications for Payment shall not exceed an amount for each Subcontractor calculated as follows:~~

~~12.7.1 Take that portion of the Subcontract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Subcontractor's Work by the share of the total Subcontract Sum allocated to that portion in the Subcontractor's schedule of values, less retainage of percent (%). Pending final determination of amounts to be paid to the Subcontractor for changes in the Work, amounts not in dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Subcontract Sum has not yet been adjusted by Change Order.~~

~~12.7.2 Add that portion of the Subcontract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing, less retainage of percent (%).~~

~~12.7.3 Subtract the aggregate of previous payments made by the Contractor to the Subcontractor.~~

~~12.7.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment by the Owner to the Contractor for reasons which are the fault of the Subcontractor.~~

~~12.7.5 Add, upon Substantial Completion of the entire Work of the Contractor, a sum sufficient to increase the total payments to the Subcontractor to percent (%) of the Subcontract Sum, less amounts, if any, for incomplete Work and unsettled claims; and, if final completion of the entire Work is thereafter materially delayed through no fault of the Subcontractor, add any additional amounts payable on account of Work of the Subcontractor in accordance with Subparagraph 9.10.3 of the General Conditions.~~

~~(If it is intended, prior to Substantial Completion of the entire Work of the Contractor, to reduce or limit the retainage from Subcontractors resulting from the percentages inserted in Subparagraphs 12.7.1 and 12.7.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)~~

The Subcontract Sum is the total amount stipulated in the subcontract to be paid by the Contractor to the Subcontractor for the Subcontractor's performance of the subcontract.

12.8 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

~~**12.9** In taking action on the Contractor's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Paragraph 12.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections or that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants acting in the sole interest of the Owner.~~

Insert A: Contractor shall be responsible for the reasonable accuracy and completeness of all information furnished in connection with all of Contractor's Applications for Payment.

ARTICLE 13 FINAL PAYMENT

13.1 Final payment shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct defective or nonconforming Work, as provided in Subparagraph 12.2.2 of the General Conditions, and to satisfy other requirements, if any, which necessarily survive final payment; (2) a final Application for Payment and a final accounting for the Cost of the Work have been submitted by the Contractor and reviewed by the Owner's accountants; and (3) a final Certificate for Payment has then been issued by the Architect; 4) Contractor has provided an unconditional final waiver of lien to the Owner; 5) Project is free of liens that are responsibility of Contractor; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment, ~~or as follows:~~

It is agreed that Owner will have deposited funds, in the amounts equalling unpaid sums due the Contractor, in an escrow account for the sole purpose of making final payment to Contractor. It is further agreed that the furnishing of unconditional lien releases from Subcontractors and their vendors will not be a condition of final payment to Contractor.

13.2 The amount of the final payment shall be calculated as follows:

13.2.1 Take the sum of the Cost of the Work substantiated by the Contractor's final accounting and the Contractor's Fee; and any savings owed to Contractor pursuant to Paragraph 5.2.1, but not more than the Guaranteed Maximum Price, if any.

13.2.2 Subtract amounts, if any, for which the Architect withholds, in whole or in part, a final Certificate for Payment as provided in Subparagraph 9.5.1 of the General Conditions or other provisions of the Contract Documents.

13.2.3 Subtract the aggregate of previous payments made by the Owner.

If the aggregate of previous payments made by the Owner exceeds the amount due the Contractor, the Contractor shall reimburse the difference to the Owner.

13.3 The Owner's accountants will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's accountants report to be substantiated by the Contractor's final accounting, and provided the other conditions of Paragraph 13.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's accountants, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Subparagraph 9.5.1 of the General Conditions. The time periods stated in this Paragraph 13.3 supersede those stated in Subparagraph 9.4.1 of the General Conditions.

13.4 If the Owner's accountants report the Cost of the Work as substantiated by the Contractor's final accounting to be less than

claimed by the Contractor, the Contractor shall be entitled to demand arbitration of the disputed amount without a further decision of the Architect. Such demand for arbitration shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment; failure to demand arbitration within this 30-day period shall result in the substantiated amount reported by the Owner's accountants becoming binding on the Contractor. Pending a final resolution by arbitration, the Owner shall pay the Contractor the amount certified in the Architect's final Certificate for Payment.

13.5 If, subsequent to final payment and at the Owner's request, the Contractor incurs costs described in Article 7 and not excluded by Article 8 to correct defective or nonconforming Work, the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price, if any. If the Contractor has participated in savings as provided in Paragraph 5.2, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Contractor.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

14.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

Eleven percent (11%).

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

14.3 Other provisions:

None.

ARTICLE 15 TERMINATION OR SUSPENSION

15.1 The Contract may be terminated by the Contractor as provided in Article 14 of the General Conditions; however, the amount to be paid to the Contractor under Subparagraph 14.1.2 of the General Conditions shall not exceed the amount the Contractor would be entitled to receive under Paragraph 15.3 below, except that the Contractor's Fee shall be calculated as if the Work had been fully completed by the Contractor, including a reasonable estimate of the Cost of the Work for Work not actually completed.

15.2 If a Guaranteed Maximum Price is established in Article 5, the Contract may be terminated by the Owner for cause as provided in Article 14 of the General Conditions; however, the amount, if any, to be paid to the Contractor under Subparagraph 14.2.4 of the General Conditions shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount the Contractor would be entitled to receive under Paragraph 15.3 below.

15.3 If no Guaranteed Maximum Price is established in Article 5, the Contract may be terminated by the Owner for cause as provided in Article 14 of the General Conditions; however, the Owner shall then pay the Contractor an amount calculated as follows:

15.3.1 Take the Cost of the Work incurred by the Contractor to the date of termination.

15.3.2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Paragraph 5.1 or, if the Contractor's Fee is stated as a fixed sum in that Paragraph, an amount which bears the same ratio to that fixed-sum Fee as

the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion.

15.3.3 Subtract the aggregate of previous payments made by the Owner. The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Subparagraph 15.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 15, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

15.4 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions; in such case, the Guaranteed Maximum Price, if any, shall be increased as provided in Subparagraph 14.3.2 of the General Conditions except that the term "cost of performance of the Contract" in that Subparagraph shall be understood to mean the Cost of the Work and the term "profit" shall be understood to mean the Contractor's Fee as described in Paragraphs 5.1 and 6.3 of this Agreement.

ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS

16.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

16.1.1 The Agreement is this executed Standard Form of Agreement Between Owner and Contractor, AIA Document A111, 1987 Edition.

16.1.2 The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, 1987 Edition.

16.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated . and are as follows:

Document	Title	Pages
<u>None.</u>		

16.1.4 The Specifications are those contained in the Project Manual dated as in Paragraph 16.1.3, and are as follows:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
<u>Outline Specifications: Revised June 17, 1996, as prepared by Bavlis, Brand, Wagner Architects.</u>		
<u>Soils Report: by Agra Earth & Environmental (11-10582-01) dated April 1996.</u>		

16.1.5 The Drawings are as follows, and are dated unless a different date is shown below:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
<u>Preliminary Drawings by Bavlis, Brand, Wagner Architects:</u>		
<u>Site Plan, dated November 13, 1997</u>		
<u>Floor Plan Study, dated November 13, 1997</u>		
<u>Mezzanine Plan, dated April 24, 1996</u>		
<u>Elevation Study, dated November 12, 1997</u>		
<u>Elevation Study, dated November 12, 1997</u>		
<u>Building Section Study, dated November 12, 1997</u>		
<u>Building Section Study, dated November 12th, 1997</u>		
<u>Civil plans entitled Water and Sewer and Storm and Grading: no date.</u>		

(For reference only) As they apply to new design:

Preliminary Drawings:

<u>Site Plans 001, 002, 003 dated April 22, 1996</u>
<u>Architectural Plans A101, A102, A103, A104, A201, A202, A301, A302, A401, A402, A601, A602 dated April 26, 1996</u>
<u>Structural Plans S2.1, S2.2, S2.3, S3.1, S4.1, S6.1 dated April 22, 1996.</u>

AIA DOCUMENT A111 - OWNER-CONTRACTOR AGREEMENT - TENTH EDITION - AIA - COPYRIGHT 1987 - THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE N.W., WASHINGTON D.C. 20006-5292. Unlicensed photocopying violates U.S. copyright laws and is subject to legal prosecution. This document was electronically produced with permission of the AIA and can be reproduced without violation until the date of expiration as noted below.

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16.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
<u>None.</u>		

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 16.

16.1.7 Other Documents, if any, forming part of the Contract Documents are as follows:

(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Assumptions and clarifications. Contractor's Construction Schedule dated January 15, 1998. King County Courthouse - Contract Cost Breakdown.

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER

CONTRACTOR

(Signature)

(Signature)

LANGLY ASSOCIATES, INC.

J.R. ABBOTT CONSTRUCTION INC.

By: Mr. Russell C. Keithly, its

By: Mr. Arthur T. Solbakken, its Executive Vice President

(Printed name and title)

(Printed name and title)

PS&F

DRAFT

999 Third Avenue/Suite 1700
Seattle, Washington 98104-4091
206/382-7900, Fax 206/382-1135

Parker, Smith & Feek, Inc.

Alaska Office:
4000 Old Seward Highway, Suite 200
Anchorage, Alaska 99503-6067
907/562-2225, Fax 907/561-2504

January 13, 1998

13023



Mr. Russell C. Keithly
Langly Associates, Inc.
3633 136th Place S.E.
Bellevue, WA 98006

RE: J.R. ABBOTT CONSTRUCTION, INC.
Project: King County District Court
Issaquah, WA

Dear Mr. Keithly:

J.R. ABBOTT CONSTRUCTION, INC. has asked us to correspond with you regarding prequalification of their firm on the captioned project.

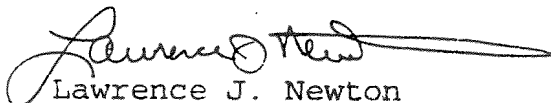
Parker Smith & Feek, Inc. is most pleased to regard J.R. ABBOTT CONSTRUCTION as a surety bonding and insurance client of our office. Our experience has been uniformly pleasant and favorable. Bonding credit has been provided by Reliance Insurance Company, an A- Rated surety company, since the firm's inception, on projects throughout the Pacific Northwest. Without exception all projects have been completed satisfactorily and lien free.

We anticipate no difficulty in providing performance and payment bonds for the above project, should they be required, upon review of the contract and confirmation of financing. We can give J.R. Abbott Construction our unqualified recommendation.

Please advise should you have any questions or if we can be of further assistance.

Very truly yours,

PARKER, SMITH & FEEK, INC.


Lawrence J. Newton
Vice President, Surety

13023

Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond:

None

See Page 2

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: _____

Name and Title:

(Any additional signatures appear on page 2.)

(FOR INFORMATION ONLY - Name, Address and Telephone) AGENT or BROKER:

Signature: _____

Name and Title:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to

perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

4 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5 If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6 After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.

8 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12 DEFINITIONS

12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

13023

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____ (Corporate Seal)

SURETY

Company: _____ (Corporate Seal)

Signature: _____

Name and Title:

Address:

Signature: _____

Name and Title:

Address:

Payment Bond

13023

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Date(Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond:

None

See Page 2

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: _____

Name and Title:

(Any additional signatures appear on page 2.)

(FOR INFORMATION ONLY - Name, Address and Telephone) AGENT or BROKER:

Signature: _____

Name and Title:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2 With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3 With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4 The Surety shall have no obligation to Claimants under this Bond until:

4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2 Claimants who do not have a direct contract with the Contractor:

4.2.1 Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and

- .2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
- .3 Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5 If a notice required by paragraph 4 is given by Owner to the Contractor or to the Surety, that is sufficient compliance.

6 When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

- 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
- 6.2 Pay or arrange for payment of any undisputed amounts.

7 The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which

the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4. 1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15 DEFINITIONS

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

13023

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL
Company: _____ (Corporate Seal)

SURETY
Company: _____ (Corporate Seal)

Signature: _____
Name and Title:
Address:

Signature: _____
Name and Title:
Address:

13023



DRAFT

General Conditions of the Contract for Construction

AIA Document A201 - Electronic Format

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES: CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

This document has been approved and endorsed by the Associated General Contractors of America.

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AIA DOCUMENT A201 - GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION - FOURTEENTH EDITION - AIA - COPYRIGHT 1987 - THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE N.W., WASHINGTON D.C. 20006-5292. WARNING: Unlicensed photocopying violates U.S. copyright laws and is subject to legal prosecution. This document was electronically produced with permission of the AIA and can be reproduced without violation until the date of expiration as noted below.

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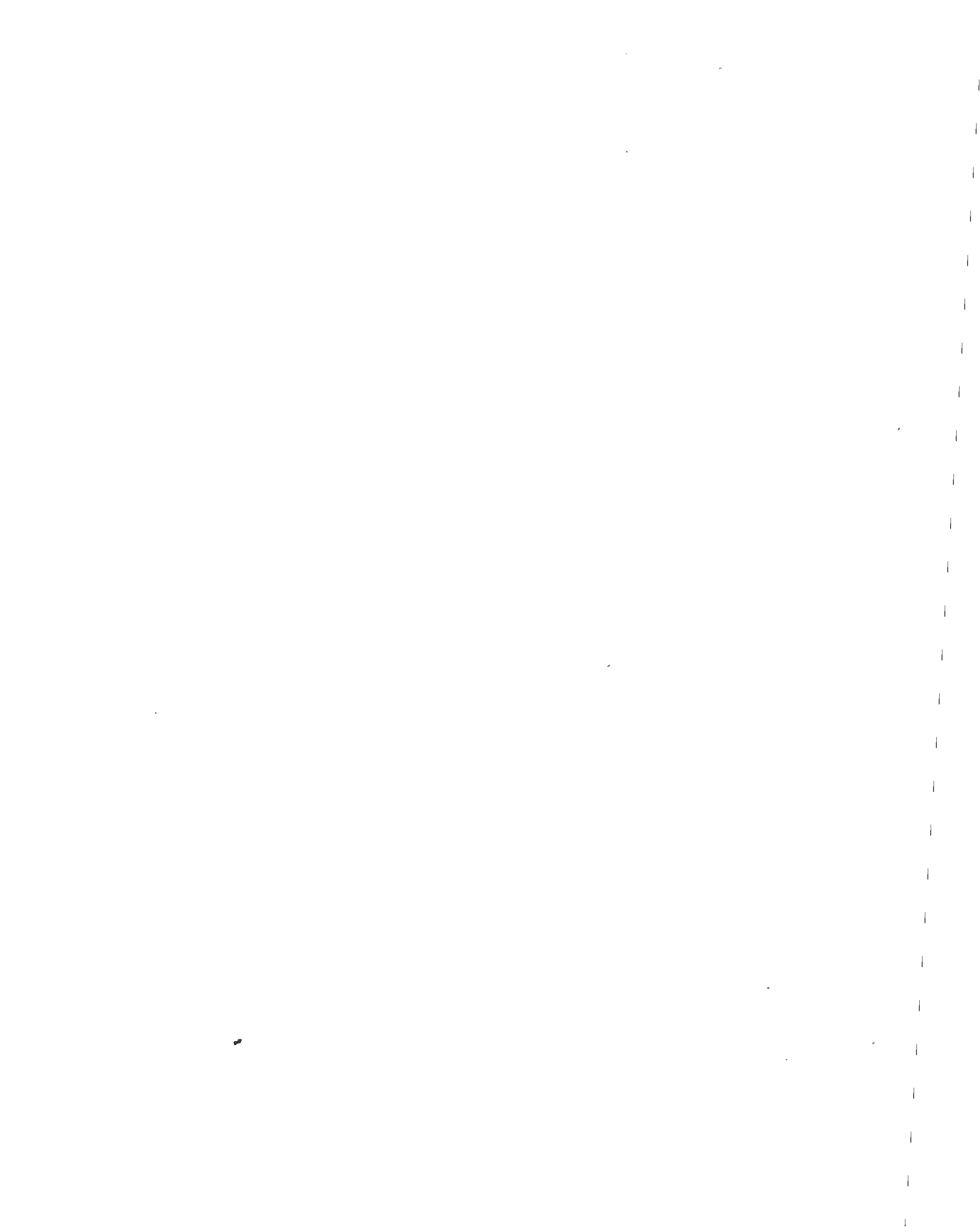
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GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

ARTICLE 1
GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter the Agreement). Conditions of the Contract (General, Supplementary and other Conditions). Drawings, Specifications, addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of addenda relating to bidding requirements).

1.1.1.1 DOCUMENT PRIORITY

In the event of conflicts and discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1 The Agreement, as amended from time to time by mutual agreement of the parties and the Contractor's assumptions and clarifications dated January 12, 1998.

2 The Addenda.

3 The Supplementary General Conditions.

4 The General Conditions of the Contract for Construction.

5 Technical Specifications.

6 Drawings.

In the case of an inconsistency between Drawings and Specifications or within either document not clarified by the Addendum, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation. Computed dimensions take precedence over scale dimensions and large scale drawings shall take

precedence over small scale drawings.

1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor or (3) between any persons or entities other than the Owner and Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.

1.1.7 THE PROJECT MANUAL

The Project Manual is the volume usually assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contract Documents shall be signed by the Owner and Contractor as provided in the Agreement. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect shall identify such unsigned Documents upon request.

1.2.2 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

1.2.4 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

1.2.5 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.3 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

1.3.1 The Drawings, Specifications and other documents prepared by the Architect are instruments of the Architect's service through which the Work to be executed by the Contractor is described. The Contractor may retain one contract record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect, and unless otherwise indicated the Architect shall be deemed the author of them and will retain all common law, statutory and other reserved rights, in addition to the

copyright. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner and Architect. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's copyright or other reserved rights.

1.4 CAPITALIZATION

1.4.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs and Clauses in the document or (3) the titles of other documents published by the American Institute of Architects.

1.5 INTERPRETATION

1.5.1 In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

ARTICLE 2 OWNER

2.1 DEFINITION

2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

2.1.2 The Owner upon reasonable written request shall

furnish to the Contractor in writing information which is necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein at the time of execution of the Agreement and, within five days after any change, information of such change in title, recorded or unrecorded.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.2.1 The Owner shall, at the request of the Contractor, prior to execution of the Agreement and promptly from time to time thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. *[Note: Unless such reasonable evidence were furnished on request prior to the execution of the Agreement, the prospective contractor would not be required to execute the Agreement or to commence the Work.]*

2.2.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site.

2.2.3 Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

2.2.4 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in orderly progress of the Work.

2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work.

2.2.6 The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion) and Article 11 (Insurance and Bonds).

2.3 OWNER'S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or persistently fails to carry out Work in accordance with the Contract

Documents, the Owner, by written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a second seven-day period. If the Contractor within such second seven-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Architect's additional services and expenses made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

3.1 DEFINITION

3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Subparagraph 2.2.2 and shall at once report to the Architect

errors, inconsistencies or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized such error, inconsistency or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.

3.2.2 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Architect at once.

3.2.3 The Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters.

3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor.

3.3.3 The Contractor shall not be relieved of obligations to performing the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

3.3.4 The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.

3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

3.5 WARRANTY

3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

Insert A: 3.5.2: Contractor shall secure and furnish directly to Owner written warranties first executed by each Subcontractor and material supplier which shall extend to Owner all rights, claims, benefits and interest that Contractor may have under express or implied warranties for defective or non-confirming Work. Contractor shall secure, assign and furnish directly to Owner, subject to approval by Architect before acceptance by Owner, all written guarantees and warranties which apply to major components incorporated into the Work, or which is otherwise called for in the Contract Documents.

3.6 TAXES

3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

3.7 PERMITS, FEES AND NOTICES

3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work.

3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs.

3.8 ALLOWANCES

3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection.

3.8.2 Unless otherwise provided in the Contract Documents:

- .1 materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;
- .2 allowances shall cover ~~the cost~~ all costs to the Contractor including, but not necessarily limited to labor, material, equipment, supplies, loading, unloading, handling, and supervision associated with a complete installation of the allowance items; ~~of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;~~

.3 Contractor's ~~costs for unloading and handling at the site, labor, installation costs, overhead, and profit and other expenses contemplated~~ for stated allowance amounts shall be included in the Contract Sum and not in the allowances;

.4 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Clause 3.8.2.2... and (2) ~~changes in Contractor's costs under Clause 3.8.2.3.~~

3.9 SUPERINTENDENT

3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

3.10.2 The Contractor shall prepare and keep current, for the Architect's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals.

3.10.3 The Contractor shall conform to the most recent schedules.

3.11 DOCUMENTS AND SAMPLES AT THE SITE

3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications,

addenda. Change Orders and other Modifications, in good order and marked currently to record changes and selections made during construction, and in addition approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

3.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect is subject to the limitations of Subparagraph 4.2.7.

3.12.5 The Contractor shall review, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.

3.12.6 The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect. Such Work shall be in accordance with approved submittals.

3.12.7 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified

materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

3.12.8 The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and the Architect has given written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals.

3.12.10 Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents.

3.12.11 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF SITE

3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

3.14 CUTTING AND PATCHING

3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor, such consent shall not be unreasonably

withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

3.15 CLEANING UP

3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

3.16 ACCESS TO WORK

3.16.1 The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

3.17 ROYALTIES AND PATENTS

3.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

3.18 INDEMNIFICATION

3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, and Owner's officers, directors, agents, shareholders, successors, and employees (individually, each an "Indemnified Party" and collectively, the "Indemnified Parties"), Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts

or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

3.18.2 In claims against any person or entity indemnified under this Paragraph 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.18 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

3.18.3 The obligations of the Contractor under this Paragraph 3.18 shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

ARTICLE 4

ADMINISTRATION OF THE CONTRACT

4.1 ARCHITECT

4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

4.1.3 In case of termination of employment of the Architect, the Owner shall appoint an architect against whom the Contractor makes no reasonable objection and whose status under the Contract Documents shall be that of

the former architect.

4.1.4 Disputes arising under Subparagraphs 4.1.2 and 4.1.3 shall be subject to litigation. ~~arbitration~~

4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents, and will be the Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the correction period described in Paragraph 12.2. The Architect will advise and consult with the Owner. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Contract.

4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect will keep the Owner informed of progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.

4.2.3 The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph 3.3. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2.4 **Communications Facilitating Contract Administration.** Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate through the Architect. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with

Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

4.2.5 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

4.2.6 The Architect will have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

4.2.7 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Paragraph 7.4.

4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

4.2.11 The Architect will interpret and ~~decide matters~~ provide recommendations concerning performance under and requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

4.2.12 Interpretations and ~~decisions~~ recommendations of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

4.3 CLAIMS AND DISPUTES

4.3.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

Insert B: 4.3.1.1. A Claim by the Contractor or Owner shall set forth, at a minimum, the following: (i) the date and description of the event giving rise to the requirement for an adjustment or interpretation of Contract terms, a payment of money, an extension of time or other relief with respect to the terms of the Contract; (ii) a statement of the nature of the impacts to the Contractor and its Subcontractors, if any; and (iii) a full and detailed breakdown of the amount of the adjustment in Contract Sum and/or Contract Time, if any, sought by the parties.

4.3.2 **Decision of Architect.** Claims, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for action as provided in Paragraph 4.4. A decision by the Architect, as provided in Subparagraph 4.4.4, shall be required as a condition precedent to ~~arbitration or~~ litigation of a Claim between the Contractor and Owner as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to ~~arbitration or~~ litigation in the event (1) the position of Architect is vacant, (2) the Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Subparagraph 4.4.4 within 30 days after the Claim is made, (4) 45 days have passed after the Claim has been referred to the Architect or (5) the Claim relates to a mechanic's lien.

4.3.3 **Time Limits on Claims.** Claims by either party must be made within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

4.3.4 **Continuing Contract Performance.** Pending final resolution of a Claim including litigation, arbitration, unless otherwise agreed in writing the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

4.3.5 **Waiver of Claims: Final Payment.** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled.

- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

4.3.6 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Paragraph 4.4.

4.3.7 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency, endangering life or property arising under Paragraph 10.3. If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with the procedure established herein.

4.3.8 Claims for Additional Time

4.3.8.1 If the Contractor wishes to make Claim for all

increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

4.3.8.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

4.3.9 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 4.3.7 or 4.3.8.

4.4 RESOLUTION OF CLAIMS AND DISPUTES

4.4.1 The Architect will review Claims and take one or more of the following preliminary actions within ten days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in part, stating reasons for rejection, (4) recommend approval of the Claim by the other party or (5) suggest a compromise. The Architect may also, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim.

4.4.2 If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.

4.4.3 If a Claim has not been resolved, the party making the Claim shall, within ten days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim or (3) notify the Architect that the initial Claim stands.

4.4.4 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven days, which decision shall be final and

binding on the parties but subject to ~~litigation~~ arbitration. Upon expiration of such time period, the Architect will render to the parties the Architect's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

4.5 ~~ARBITRATION~~ DISPUTE RESOLUTION

4.5.1 Controversies and Claims Subject to Arbitration. Litigation. Any controversy or claim arising out of or related to the Contract, or the breach thereof, which have not been otherwise resolved under the Contract shall be subject to litigation. Such controversies or claims upon which the Architect has given notice and rendered a decision as provided for in Section 4.4.4 shall be subject to litigation upon written demand by either party.

Litigation may not commence until the later of:

1 The 45th day after the claim has been submitted to the Architect and the Architect has rendered his decision;

2 The date upon which the Architect has rendered a final written decision on the claim;

3 The 10th day after the parties have presented evidence to the Architect or have been given reasonable opportunity to do so, if the Architect has not rendered a final written decision by that date; or

4 Any of the five events described in Section 4.3.2.

This Contract and all question(s) concerning the capacity of the parties, execution, validity (or invalidity), and performance of the Contract shall be interpreted, construed, or enforced in all aspects in accordance with the laws of the State where the Project is located.

At the request of either party, after litigation proceedings have been initiated, a non-binding mediation of any claim or controversy, by a mediator mutually agreeable to the Owner and Contractor, shall be conducted. The cost of such mediation shall be borne equally by the Owner and Contractor. This Agreement to mediation shall be specifically enforceable. Any controversy or Claim arising out of or related to the Contract, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof, except controversies or Claims relating

to aesthetic effect and except those waived as provided for in Subparagraph 4.3.5. Such controversies or Claims upon which the Architect has given notice and rendered a decision as provided in Subparagraph 4.4.4 shall be subject to arbitration upon written demand of either party. Arbitration may be commenced when 45 days have passed after a Claim has been referred to the Architect as provided in Paragraph 4.3 and no decision has been rendered.

4.5.2 Rules and Notices for Arbitration. Claims between the Owner and Contractor not resolved under Paragraph 4.4 shall, if subject to arbitration under Subparagraph 4.5.1, be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise. Notice of demand for arbitration shall be filed in writing with the other party to the Agreement between the Owner and Contractor and with the American Arbitration Association, and a copy shall be filed with the Architect.

4.5.3 Contact Performance During Arbitration. During arbitration proceedings, the Owner and Contractor shall comply with Subparagraph 4.3.4.

4.5.4 When Arbitration May Be Demanded. Demand for arbitration of any Claim may not be made until the earlier of (1) the date on which the Architect has rendered a final written decision on the Claim; (2) the tenth day after the parties have presented evidence to the Architect or have been given reasonable opportunity to do so, if the Architect has not rendered a final written decision by that date; or (3) any of the five events described in Subparagraph 4.3.2.

4.5.4.1 When a written decision of the Architect states that (1) the decision is final but subject to arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives the final written decision, then failure to demand arbitration within said 30 days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.

4.5.4.2 A demand for arbitration shall be made within the time limits specified in Subparagraphs 4.5.1 and 4.5.4 and Clause 4.5.4.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or

~~equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Paragraph 13.7.~~

~~4.5.5 Limitation on Consolidation or Joinder. No arbitration arising out of or relating to the Contract Documents shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate contractor as described in Article 6 shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a dispute not described therein or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~4.5.6 Claims and Timely Assertion of Claims. A party who files a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. When a party fails to include a Claim through oversight, inadvertence or excusable neglect, or when a Claim has matured or been acquired subsequently, the arbitrator or arbitrators may permit amendment.~~

~~4.5.7 Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

ARTICLE 5 SUBCONTRACTORS

5.1 DEFINITIONS

~~5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number~~

and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

~~5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.~~

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

~~5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection.~~

~~5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.~~

~~5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued. However, no increase in the Contract Sum shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.~~

~~5.2.4 The Contractor shall not change a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such change.~~

5.3 SUBCONTRACTUAL RELATIONS

~~5.3.1 By appropriate agreement, written where legally~~

**CONSTRUCTION AND TO AWARD
SEPARATE CONTRACTS**

required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

**5.4 CONTINGENT ASSIGNMENT OF
SUBCONTRACTS**

5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

5.4.2 If the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted.

**ARTICLE 6
CONSTRUCTION BY OWNER OR BY SEPARATE
CONTRACTORS**

6.1 OWNERS RIGHT TO PERFORM

6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided elsewhere in the Contract Documents.

6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the

Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2.5.

6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Paragraph 4.3 provided the separate contractor has reciprocal obligations.

6.2.6 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Architect determines to be just.

ARTICLE 7 CHANGES IN THE WORK

7.1 CHANGES

7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction

Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

7.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

7.2 CHANGE ORDERS

7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect, stating their agreement upon all of the following:

- .1 a change in the Work;
- .2 the amount of the adjustment in the Contract Sum, if any; and
- .3 the extent of the adjustment in the Contract Time, if any.

7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Subparagraph 7.3.3.

7.3 CONSTRUCTION CHANGE DIRECTIVES

7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum, or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

7.3.3 If the Construction Change Directive provides for

an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 as provided in Subparagraph 7.3.6.

7.3.4 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

7.3.5 A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clause 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 7.3.6 shall be limited to the following:

- .1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' or workmen's compensation insurance;
- .2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.5 additional costs of supervision and field office personnel directly attributable to the change.

7.3.7 Pending final determination of cost to the Owner, amounts not in dispute may be included in Applications for Payment. The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

7.3.8 If the Owner and Contractor do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be referred to the Architect for determination.

7.3.9 When the Owner and Contractor agree with the determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

7.4 MINOR CHANGES IN THE WORK

7.4.1 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 8 TIME

8.1 DEFINITIONS

8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the

Work.

8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Paragraph 9.8.

8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.2 PROGRESS AND COMPLETION

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

8.2.3 The Contractor shall proceed expeditiously with adequate forces, and in accordance with the Contractor's Schedule, and shall achieve Substantial Completion within the Contract Time.

Insert C: 8.2.4 After Substantial Completion, Contractor shall carry the work forward expeditiously with adequate forces and shall achieve Final Completion within thirty (30) calendar days after Substantial Completion, unless otherwise agreed to by Owner. The timing of all work to be performed by Contractor after Substantial Completion, including but not limited to punch list work, shall be coordinated with Owner.

8.3 DELAYS AND EXTENSIONS OF TIME

~~8.3.1 If the Contractor is delayed at any time in progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work,~~

~~or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending arbitration, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. If the Contractor is delayed at any time in progress of the Work by an act or neglect of the Owner or the Architect, or by their employees, or of a separate contractor employed by the Owner, or by changes in the Work or by occurrences beyond the control and without the fault or negligence of the Contractor and which by the exercise of reasonable diligence the Contractor is unable to prevent or provide against, including labor disputes, fire, unusual delay in deliveries not reasonably anticipatable, unavoidable casualties, or by other occurrence which the Architect, subject to the Owner's approval, determines may justify delay, then, provided that the Contractor is in compliance with Subparagraphs 4.3.3 hereof, the Contract Time shall be extended by Change Order or Construction Change Directive for the length of time the overall completion of the Work is actually and directly delayed by such occurrence as determined by the Architect and approved by the Owner (such approval not to be unreasonably withheld, delayed, or conditioned). Such extension of Contract Time shall be net of any delays caused by or due to fault or negligence of the Contractor or which are otherwise the responsibility of the Contractor. The Contractor shall in the event of any occurrence likely to cause a delay, cooperate in good faith with the Architect and the Owner to minimize and mitigate the impact of any such occurrence and do all things reasonable under the circumstances to achieve this goal.~~

8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Paragraph 4.3.

~~8.3.3 This Paragraph 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents. Contractor shall be entitled to an equitable adjustment in the Contract Time for changes in the time of performance directly attributable to a Force Majeure Event, as defined in Paragraph 8.3.4 below, provided it makes a notice of claim in accordance with Paragraph 4.3.3. However, Contractor shall not be entitled to any adjustment in the Contract Sum resulting from a Force Majeure Event. Contractor shall be entitled to an equitable adjustment in Contract Time, and may be entitled to an equitable adjustment in Contract Sum, if the cost or time of Contractor's performance is changed due to the fault or negligence of Owner provided the Contractor makes a notice of claim in accordance with Paragraph 4.3.3. Contractor shall not be entitled to any adjustment in Contract Time or in the Contract Sum for any delay or failure of performance to~~

the extent such delay or failure was caused or contributed to by Contractor or anyone for whose acts Contractor is responsible. To the extent any delay or failure of performance was concurrently caused by the Owner and Contractor, Contractor shall be entitled to any adjustment in the Contract Time for that portion of the delay or failure of performance that was concurrently caused, provided it makes notice of claim in connection with Paragraph 4.3.3, but shall not be entitled to any adjustment in Contract Sum. Contractor shall make all reasonable efforts to prevent and mitigate the effects of any delay, whether occasioned by a Force Majeure Event or otherwise.

Insert D: 8.3.4 As used herein, a Force Majeure Event is an event, circumstance or condition that was unforeseeable and beyond the control of either party or their respective contractors, subcontractors, or suppliers at any tier below them. Force Majeure Events include but are not limited to: 1) Acts of God or the public enemy; 2) Acts or omissions of any government entity; 3) Fire or other casualty for which Contractor or its subcontractors at any tier were not responsible; 4) Quarantine or epidemic; 5) Strike or defensive lockout; and 6) Unusually severe weather conditions which could not have been reasonably anticipated.

ARTICLE 9 PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as

the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents.

9.3.1.1 Such applications may include requests for payment on account of changes in the Work which have been properly authorized by Construction Change Directives but not yet included in Change Orders.

9.3.1.2 Such applications may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason.

9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include applicable insurance, storage, and transportation to the site for such materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1.

9.4.2 The issuance of a Certificate for Payment will

constitute a representation by the Architect to the Owner, based on the Architect's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

9.5.1 The Architect may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or

equipment;

- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

9.6 PROGRESS PAYMENTS

9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

9.6.4 Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6.2, 9.6.3 and 9.6.4.

9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

9.7 FAILURE OF PAYMENT

9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by arbitration, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be accomplished as provided in Article 7.

9.8 SUBSTANTIAL COMPLETION

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. Substantial completion pertains only to the Work to be performed hereunder. Substantial completion is further defined as when a Temporary Certificate of Occupancy is received.

9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of

Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor, for their written acceptance of responsibilities assigned to them in such Certificate.

9.8.3 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

9.9 PARTIAL OCCUPANCY OR USE

9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.3.11 and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of

the Contract Documents.

9.10 FINAL COMPLETION AND FINAL PAYMENT

9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner

shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims. The making of final payment shall constitute a waiver of claims by the Owner as provided in Subparagraph 4.3.5.

9.10.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. Such waivers shall be in addition to the waiver described in Subparagraph 4.3.5.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

10.1.2 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) or any other material defined as hazardous or contaminated by any federal, state, county, municipal or local agency having or claiming to have jurisdiction over the site of the Work or the Project which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) or any other material defined as hazardous or contaminated by any federal, state, county, municipal or local agency having or claiming to have jurisdiction over the site of the Work or the Project and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB) or any other material defined as hazardous or contaminated by any federal, state, county, municipal or local agency having or claiming to have

jurisdiction over the site of the Work or the Project, or when it has been rendered harmless, by written agreement of the Owner and Contractor, or in accordance with final determination by the Architect on which arbitration litigation has not been demanded, or by arbitration litigation under Article 4.

10.1.3 The Contractor shall not be required pursuant to Article 7 to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB) or any other material defined as hazardous or contaminated by any federal, state, county, municipal or local agency having or claiming to have jurisdiction over the site of the Work or the Project.

10.1.4 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material is asbestos or polychlorinated biphenyl (PCB) or any other material defined as hazardous or contaminated by any federal, state, county, municipal or local agency having or claiming to have jurisdiction over the site of the Work or the Project and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.1.4.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and

- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.

10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

10.3 EMERGENCIES

10.3.1 In an emergency affecting safety of persons or

property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by another person;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and
- .7 claims involving contractual liability insurance applicable to the Contractor's obligations under Paragraph 3.18.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

11.1.2.1 INSURANCE REQUIREMENTS

With respect to performance hereunder, Contractor shall maintain the following insurance coverage and any additional insurances required by law. This insurance is to be primary and non-contributory in the event of a loss.

1. Worker's Compensation insurance as prescribed by the law of the state in which the Work is performed. Statutory.

2. Employer's Liability or Stop Gap insurance with limits as follows:

Bodily Injury by Accident - \$1,000,000

Bodily Injury by Disease - per Employee - \$1,000,000

Bodily Injury by Disease - policy Aggregate - \$1,000,000

3. Commercial General Liability insurance shall include a provision naming the Owner as an Additional Insured and shall have the following minimum limits:

Bodily Injury and Property Damage Combined Single Limit

Each Occurrence - \$1,000,000

Products & Completed Operations Aggregate - \$1,000,000

General Aggregate - \$1,000,000

4. Automobile Liability shall extend to all owned, hired, and non-owned vehicles and shall not exclude any vehicle to be used in connection with the Work.

Bodily Injury and Property Damage

Combined Single Limit each accident - \$1,000,000

5. Umbrella Liability insurance shall name Owner as an Additional Insured and shall follow form the primary policies.

Bodily Injury and Property Damage

Combined Single Limit - Per Occurrence / Aggregate, excess of \$1,000,000 underlying coverage -

\$5,000,000

The Contractor shall also require all subcontractors who may enter upon the work site to maintain insurance coverage per items 1 through 4 above. Subcontractors shall not be required to provide Umbrella Liability coverage.

The Company providing the insurance for the Contractor must be acceptable to the Owner, which acceptability will not be unreasonably withheld.

Certificates of Insurance using the insurance industry standard ACORD form shall be furnished prior to commencement of the Work. Certificates shall include the provision for 30 days notice to Owner of cancellation, non-renewal. Owner should get copies of policies if requested. Additional insureds shall be specifically named.

11.1.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

11.2 OWNER'S LIABILITY INSURANCE

11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

11.3 PROPERTY INSURANCE

11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance in the amount of the initial Contract Sum as well as subsequent modifications thereto for the entire Work at the site on a replacement cost basis without voluntary deductibles. Such property insurance

shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 11.3 to be covered, whichever is earlier. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work.

11.3.1.1 Property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, false-work, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's services and expenses required as a result of such insured loss. Coverage for other perils shall not be required unless otherwise provided in the Contract Documents.

11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance which will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor, then the Owner shall bear all reasonable costs properly attributable thereto.

11.3.1.3 If the property insurance requires minimum deductibles and such deductibles are identified in the Contract Documents, the Contractor shall pay costs not covered because of such deductibles. If the Owner or insurer increases the required minimum deductibles above the amounts so identified or if the Owner elects to purchase this insurance with voluntary deductible amounts, the Owner shall be responsible for payment of the additional costs not covered because of such increased or voluntary deductibles. If deductibles are not identified in the Contract Documents, the Owner shall pay costs not covered because of deductibles.

11.3.1.4 Unless otherwise provided in the Contract Documents, this property insurance shall cover portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.

11.3.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

11.3.3 Loss of Use Insurance. The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or for other special hazards be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost there of shall be charged to the Contractor by appropriate Change Order.

11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, adjoining or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Subparagraph 11.3.7 for damages caused by fire or other perils covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Paragraph 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Contractor.

11.3.7 Waivers of Subrogation. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors.

sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Paragraph 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty, of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

11.3.8 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Subparagraph 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or in accordance with an arbitration award in which case the procedure shall be as provided in Paragraph 4.5. If after such loss no other special agreement is made, replacement of damaged property shall be covered by appropriate Change Order.

11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection be made, arbitrators shall be chosen as provided in Paragraph 4.5. The Owner as fiduciary shall, in that case, make settlement with insurers in accordance with directions of such arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

11.3.11 Partial occupancy or use in accordance with Paragraph 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

11.4 PERFORMANCE BOND AND PAYMENT BOND

11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

**ARTICLE 12
UNCOVERING AND CORRECTION OF WORK**

12.1 UNCOVERING OF WORK

12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, be uncovered for the Architect's observation and be replaced at the Contractor's expense without change in the Contract Time.

12.1.2 If a portion of the Work has been covered which the Architect has not specifically requested to observe prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, the Contractor shall pay such costs unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 CORRECTION OF WORK

12.2.1 The Contractor shall promptly correct Work

rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby.

12.2.2 If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Subparagraph 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2 shall survive acceptance of the Work under the Contract and termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect, the Owner may remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten days after written notice, the Owner may upon ten additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

12.2.5 The Contractor shall bear the cost of correcting

destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

12.2.6 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one year as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

12.3 ACCEPTANCE OF NONCONFORMING WORK

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

13.1.1 The Contract shall be governed by the law of the place where the Project is located.

13.2 SUCCESSORS AND ASSIGNS

13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole without written consent of the other, such consent not to be unreasonably withheld. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

13.3 WRITTEN NOTICE

13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.

13.4 RIGHTS AND REMEDIES

13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

13.5 TESTS AND INSPECTIONS

13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so the Architect may observe such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so the Architect may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 13.5.3.

13.5.3 If such procedures for testing, inspection or approval under Subparagraphs 13.5.1 and 13.5.2 reveal

failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses.

13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.6 INTEREST

13.6.1 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

13.7.1 As between the Owner and Contractor:

- .1 Before Substantial Completion.** As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion.
- .2 Between Substantial Completion and Final Certificate for Payment.** As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and
- .3 After Final Certificate for Payment.** As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any

applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any warranty provided under Paragraph 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Paragraph 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor, for any of the following reasons:

- .1** issuance of an order of a court or other public authority having jurisdiction;
- .2** an act of government, such as a declaration of national emergency, making material unavailable;
- .3** because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Subparagraph 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents;
- .4** if repeated suspensions, delays or interruptions by the Owner as described in Paragraph 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less; or
- .5** the Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Subparagraph 2.2.1.

14.1.2 If one of the above reasons exists, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead.

profit and damages.

14.1.3 If the Work is stopped for a period of 60 days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Subparagraph 14.1.2.

14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 The Owner may terminate the Contract if the Contractor:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

14.2.2 When any of the above reasons exist, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

- .2 accept assignment of subcontracts pursuant to Paragraph 5.4; and
- .3 finish the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.2 An adjustment shall be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of this Contract.

14.3.3 Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

13023

After Recording Return to:

PRESTON GATES & ELLIS LLP
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104-7078
Attention: David O. Thompson

LEASE

by and between

ISSAQUAH COURTHOUSE, LLC, Lessor

and

KING COUNTY, WASHINGTON, Lessee

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- H - Assignment Agreement
- I - Architect's Contract
- J - General Contract

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TRUST AGREEMENT

BY AND AMONG

FIRST TRUST NATIONAL ASSOCIATION
as Trustee

AND

ISSAQUAH COURTHOUSE, LLC

Dated: February 15, 1998

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TRUST AGREEMENT

THIS TRUST AGREEMENT (the "Trust Agreement") is entered into as of this 15th day of February, 1998, between First Trust National Association, Seattle, Washington, as trustee (the "Trustee"), and Issaquah Courthouse, LLC, a Washington limited liability company (the "Developer"), with the approval and acceptance of King County, Washington (the "County").

RECITALS:

WHEREAS, the Developer has acquired certain real property located in unincorporated King County and legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Land") and wishes to construct thereon courthouse facilities (the "Improvements") intended for use by the Issaquah District Court of King County, Washington (the "County"); and

WHEREAS, the County is authorized by Chapter 36.89 RCW to acquire courtroom facilities by lease; and

WHEREAS, on February __, 1998, Developer, as Lessor, and the County, as Lessee, entered into a lease with option to purchase (the "Lease") the Improvements and the Land (collectively, the "Property"); and

WHEREAS, the Developer has negotiated with the Underwriter and the Trustee to provide for long-term financing of Developer's acquisition of the Land and construction of the Improvements by means of the issuance of certificates of participation evidencing undivided proportionate beneficial interests in certain of the payments under the Lease (the "Certificates"), which Certificates will be executed and delivered by the Trustee or its agent pursuant to this Trust Agreement; and

WHEREAS, in consideration of the issuance of the Certificates, the Developer will assign to Trustee, for the benefit of the Owners of the Certificates, the Developer's right to such payments under the Lease (the "Lease Payments"); and

WHEREAS, the Underwriter has offered to purchase the Certificates for a sum equal to the full principal amount due under the Lease for Lease Payments evidenced by the Certificates in accordance with the Lease; and

WHEREAS, the Trustee will hold in trust the proceeds of sale of the Certificates and certain other funds as described herein and will use a portion of such money to make Lease Payments that are due and payable prior to Substantial Completion of the Improvements, and upon Substantial Completion of the Improvements in accordance with the Lease, will use all or a portion of such funds to pay Developer the Lease Transfer Amount, at which time the Developer will convey all of its remaining right, title and interest in the Lease and all of its right, title and interest in and to the Property to Trustee for the benefit of the Owners of the Certificates;

NOW, THEREFORE, the parties hereby agree as follows:

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ARTICLE I

DEFINITIONS AND CONSTRUCTION

Section 1.01. Definitions. The following terms shall have the meanings given below unless the context clearly requires otherwise:

"Additional Rent" means (i) amounts payable by the County to parties other than Lessor pursuant to the Lease; and (ii) amounts owed to Lessor under the Lease and not included in Lease Payments, as set forth in Section 5.2 of the Lease.

"Assignment" means that certain Assignment Agreement by and between the Developer and the Trustee executed simultaneously with the execution of this Trust Agreement for the purposes of assigning all of Developer's right, title and interest in the Lease Payments to the Trustee for the benefit of the Owners from time to time of the Certificates.

"Assignment and Deed" means that certain assignment of the Lease and statutory warranty deed, in substantially the form attached as Exhibit A hereto and incorporated herein by this reference, to be executed on or after the Substantial Completion Date by the Developer for purposes of assigning all of Developer's remaining right, title and interest in the Lease and all of Developer's right, title and interest in the Property to the Trustee for the benefit of the Owners from time to time of the Certificates.

"Authorized Representative of the County" means the County Executive, County Finance Director, and/or any other person designated in writing by the County Executive and whose signature is on file with the Trustee.

"Bond Counsel" means the law firm of Preston Gates & Ellis LLP, or any other nationally recognized bond counsel firm acceptable to the County, the Developer (until the Substantial Completion Date) and the Trustee.

"Business Day" means any day that is not a Saturday, Sunday, or other day on which commercial banks in the States of Washington, Minnesota, or New York are authorized or required by law to close.

"Certificate Register" means the registration books maintained by the Trustee pursuant to Sections 3.01 and 3.07 hereof for purposes of identifying ownership of the Certificates.

"Certificates" means the certificates of participation executed and delivered by the Trustee pursuant to Article III of this Trust Agreement evidencing undivided proportionate beneficial interests in the Lease Payments.

"Code" means the federal Internal Revenue Code of 1986, as amended, and the applicable rulings and regulations, proposed or promulgated thereunder.

"County" means King County, Washington, a duly organized and existing municipal corporation of the State of Washington.

"Developer" means Issaquah Courthouse, LLC, a Washington limited liability company.

"DTC" means The Depository Trust Company of New York, New York.

"Environmental Indemnity Agreement" means the agreement of that name dated as of February 15, 1998, by and between Trustee and County, in substantially the form attached as Exhibit C hereto.

"Event of Default" has the meaning given such term in Section 5.01 hereof.

"Interest Payment Date" means each June 1 and December 1, beginning June 1, 1998.

"Lease" means the Lease dated February ___, 1998, between the Developer, as initial Lessor, and the County, as Lessee, providing for the lease, with option to purchase, of the Property by the County.

"Lease Payments" means the aggregate of all payments due under Section 5.1 of the Lease, and excluding Additional Rent payable under Section 5.2 of the Lease.

"Lease Payment Dates" means dates on which Lease Payments are due as indicated in Exhibit B-2 of the Lease.

"Lease Payment Fund" means the Lease Payment Fund established by the Trustee pursuant to Section 4.01 hereof.

"Lease Transfer Amount" means the total amount necessary for the Trustee to acquire all of Developer's right, title and interest in the Lease and the Property, as specified in Exhibit B hereto.

"Lease Transfer Date" means the date on which the Lease Transfer Amount is paid to the Developer.

"Lease Transfer Fund" means the Lease Transfer Fund established by the Trustee pursuant to Section 4.02 hereof.

"Letter of Representations" means the Blanket Issuer Letter of Representations heretofore executed by the County and accepted by DTC.

"Moody's" means Moody's Investors Service, Inc., or its successors and assigns or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized rating agency.

"Outstanding" means, in connection with the Certificates as of the time in question, all Certificates executed and delivered under this Trust Agreement, except:

(a) Certificates theretofore canceled or required to be canceled under Section 3.10 hereof;

(b) Certificates for the payment or redemption of which the necessary amount shall have been or shall concurrently be deposited with the Trustee, or Certificates provision for the payment of which shall have been made in accordance with Section 9.01 hereof; provided that, if such Certificates are being redeemed prior to maturity, the required notice of redemption shall have been given or provision satisfactory to the Trustee shall have been made therefor; and

(c) Certificates in substitution for which other Certificates have been executed and delivered pursuant to Article III hereof.

In determining whether the Owners of a requisite aggregate principal amount of Certificates Outstanding have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions thereof, Certificates registered to the County or its designee on the Certificate Register shall be disregarded and deemed not to be Outstanding for the purpose of such determination.

"Owner" means the owner of a Certificate as indicated on the Certificate Register maintained in accordance with Section 3.01 hereof.

"Principal Office of the Trustee" means the office of the Trustee in Seattle, Washington at Two Union Square, Suite 2120, 601 Union Street, Seattle, Washington 98101; provided, however, that with respect to the payment of Certificates and any exchange, transfer, or other surrender of the Certificates, Principal Office means the office of First Trust National Association at 180 East 5th Street, St. Paul, Minnesota 55101; or such other location or locations designated by the Trustee by written notice.

"Property" means the Land, the Improvements, and all other property subject to the Lease.

"Qualified Investments" means the following, to the extent permitted by law:

- (i) direct obligations of the United States of America;
- (ii) obligations the payment of the principal of and interest on which is unconditionally guaranteed by the United States;
- (iii) general obligations of any agencies or instrumentalities of the United States;
- (iv) any written repurchase agreement with any bank, savings institution or trust company (including those of the Trustee or its affiliate for which the Trustee or its affiliate

receives a fee for maintenance and services of the repurchase agreement) that is fully secured by collateral security described in clauses (i) and (ii) of this definition, and provided further that (a) such collateral is held by the Trustee or an independent third party custodian acceptable to the Trustee during the term of such repurchase agreement, (b) such collateral is not subject to liens or claims of third parties, and (c) such collateral has a market value (determined at least once every 30 days) at least equal to 100% of the amount invested in the repurchase agreement;

(v) certificates of deposit, time deposits or demand deposits with any bank or savings institution qualified as a depository of public funds in the State of Washington, including the Trustee or any affiliate thereof, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation or similar governmental insurance organization, are fully secured by obligations described in clauses (i), (ii), or (iii); and

(vi) shares of a money market mutual fund or other collective investment fund registered under the Federal Investment Company Act of 1940 (including those mutual funds or investment companies or trusts for which the Trustee or an affiliate of the Trustee provides services for a fee including services as investment advisor, custodian, shareholder, serving agent, transfer agent, administrator or distributor), whose shares are registered under the Federal Securities Act of 1933, having assets of at least \$100,000,000, whose only assets are obligations described in clauses (i) and (ii) of this definition of Qualified Investments and repurchase agreements and reverse repurchase agreements relating to such securities, and which, at the time of purchase, are rated by Moody's in one of the two highest categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) for obligations of that nature.

"S&P" means Standard & Poor's Ratings Services or its successors and assigns or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized rating agency.

"Trust Agreement" means this Trust Agreement.

"Trust Estate" means the proceeds of sale of the Certificates, certain funds deposited in the Lease Transfer Fund on behalf of the Developer, and rights in the Lease and the Property transferred, conveyed, sold and assigned to the Trustee in trust for the benefit of the Owners from time to time of the Certificates, all as set forth in Article II hereof.

"Trustee" means First Trust National Association, Seattle, Washington or any successor thereto, in its capacity as trustee, paying agent and registrar hereunder.

"Underwriter" means Smith Barney Inc., Seattle, Washington, or any successor thereto.

Capitalized terms used herein and not otherwise defined herein shall have the meanings given such terms in the Lease.

Section 1.02. Rules of Construction.

(a) The words "hereof," "herein," "hereto," "hereby" and "hereunder" (except in the form of Certificate) refer to the entire Trust Agreement.

(b) Every "request," "order," "demand," "application," "appointment," "notice," "statement," "certificate," "consent" or similar action hereunder by the County shall, unless the form thereof is specifically provided, be in writing signed by an Authorized Representative of the County.

ARTICLE II

LEASE, PROPERTY AND OTHER FUNDS HELD IN TRUST;
APPLICATION OF FUNDS

Section 2.01. Developer's Interest in Lease and Property Held in Trust. All right, title and interest of the Developer in the Lease Payments have been transferred, conveyed and assigned to the Trustee in trust for the benefit of the Owners from time to time of the Certificates pursuant to that certain Assignment Agreement attached as Exhibit H to the Lease executed simultaneously with this Trust Agreement, and the trust created thereby and hereunder is hereby accepted by Trustee. The proceeds of sale of the Certificates and \$ _____ deposited by the Developer in the Lease Transfer Fund, as provided in Section 2.02 hereof, shall also be part of the Trust Estate, until applied as set forth in Sections 3.03(b), 4.02 and 4.05 hereof.

When and if all right, title and interest of the Developer in the Property are transferred to the Trustee, in accordance with Section 4.02(c) hereof, the remaining right, title and interest in the Lease and the Property shall also become part of the Trust Estate. Trustee agrees to hold the Trust Estate in trust for the benefit of the Owners from time to time of the Certificates, and shall assign or release the Trust Estate only in accordance with the terms of this Agreement.

Section 2.02. Deposit of Funds. The Trustee has received \$ _____ plus \$ _____ in accrued interest from the proceeds of sale of the Certificates and \$ _____ from the Developer all to be applied as provided in Article IV hereof.

Section 2.03. Release of Trust Estate. So long as any Certificates are Outstanding, the Trustee is authorized to assign or release the Trust Estate only (i) to a representative designated by the Owners of a majority in aggregate principal amount of the Certificates Outstanding following an Event of Default hereunder, in accordance with Section 5.05 hereof, or (ii) to a successor trustee following removal or resignation of the Trustee in accordance with Article VI hereof or as otherwise may be provided herein.

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ARTICLE III

AUTHORIZATION OF CERTIFICATES

Section 3.01. Authorization of Certificates. Pursuant to this Trust Agreement, the Developer, with the approval of the County, authorizes and directs the Trustee to execute and deliver the Certificates in an aggregate principal amount equal to the outstanding principal balance of all Lease Payments due or to become due under the Lease from and after the date hereof, which is \$ _____, and to act as paying agent and registrar of the Certificates. Each Certificate shall evidence an undivided proportionate beneficial interest in all right, title and interest of the Lessor in the principal and interest components of such Lease Payments. The Lease Payments are set forth in Exhibit B-2 of the Lease.

The Certificates shall be executed and delivered in fully registered form; shall be dated as of February 15, 1998; shall be in denominations evidencing \$5,000 increments of the principal component of such Lease Payments or any integral multiple thereof, except that no Certificate shall evidence more than one principal maturity; shall be numbered separately in such manner and with any additional designation as the Trustee or its agent deems necessary for purposes of identification; shall bear interest at the rates per annum set forth in the following schedules, calculated on the basis of a year of 360 days and twelve 30-day months, payable on June 1, 1998, and semiannually thereafter on June 1 and December 1 of each year, and shall mature on December 1 in the years and amounts as follows:

<u>Certificates</u>		
Year (December 1)	Principal Amount	Interest Rate
2001	\$	%
2002		
2003		
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		

The Trustee or its agent shall maintain the Certificate Register. The Certificate Register shall contain the name and mailing address of the Owner of each Certificate or nominee of such Owner and the principal amount and number of Certificates held by each Owner or nominee.

Upon surrender thereof to the Trustee the Certificates are interchangeable for Certificates in any authorized denomination of an equal aggregate principal amount and of the same interest rate and maturity. Certificates may be transferred only if endorsed in the manner provided therein and surrendered to the Trustee. Such exchange or transfer shall be without cost to the Owner or transferee. Notwithstanding the foregoing, so long as the Certificates are held by DTC in uncertificated form, transfers and exchanges of the Certificates shall be made as provided in the Letter of Representations.

The Trustee shall not be required (a) to execute and deliver, register, transfer or exchange any Certificates for a period of fifteen (15) days next preceding any Interest Payment Date; or (b) to register, transfer or exchange any Certificate selected, called or being called for redemption.

Both principal of and interest on the Certificates shall be payable in lawful money of the United States of America. So long as the Certificates are held by DTC in uncertificated form, payments of interest on and principal of the Certificates shall be paid as provided in the Letter of Representations. If the Certificates are ever Outstanding in certificated form, interest on the Certificates shall be paid by check mailed by first-class mail (on the date such interest is due) to the Owners or assigns at the addresses appearing on the Certificate Register as of the 15th day of the month preceding the Interest Payment Date (or upon request, received upon or before the 15th day of the month preceding any Interest Payment Date, of a Certificate Owner of \$1,000,000 or more in principal amount of Certificates, a payment shall be made on the Interest Payment Date by wire transfer in immediately available funds to an account designated by such Owner to the Trustee) and principal of the Certificates shall be payable upon presentation and surrender of the Certificates by the Owners at the Principal Office of the Trustee.

Section 3.02. Optional Redemption of Certificates. Certificates maturing on and after December 1, 2008, are subject to redemption at the option of the County on June 1, 2008, and on any day thereafter, in whole or in part (and if in part in inverse order of maturities and by lot within a maturity), at a price of par plus accrued interest to the date of redemption. In the event that a portion of a Certificate is redeemed, there shall be executed and delivered to the Owner, without charge therefor, for the unredeemed balance of the Certificate, a new Certificate or Certificates, of like maturity and interest rate, in any denomination authorized by this Trust Agreement.

Section 3.03. Special Mandatory Redemption of Certificates.

(a) The Certificates shall be subject to special mandatory redemption in part, on December 15, 1999, if (i) there has been a partial taking of the Property in accordance with Section 13.1(b) of the Lease, and (ii) the Improvements have been modified in a manner that reduces the Lease Transfer Amount, to the extent of the amount of such reduction, at a price of par plus accrued interest to the date of redemption.

(b) The Certificates shall be subject to special mandatory redemption, in whole, on December 15, 1999, if Substantial Completion has not occurred on or before December 1, 1999, at a price of par plus accrued interest to the date of redemption; provided, however, that the special mandatory redemption otherwise provided for on December 15, 1999, may be extended to June 1, 2000, (with special mandatory redemption of the Certificates to occur in whole on such date if Substantial Completion has not occurred by May 15, 2000), if on or before December 1, 1999, the Trustee receives the following: (1) a deposit of funds from or on behalf of the Developer which, together with funds then available in the Lease Transfer Fund, shall be sufficient to provide for the payment of interest on the Certificates due and payable on and prior to June 1, 2000 and the redemption price for the Certificates that would be payable on June 1, 2000; (2) a report from an independent firm of certified public accountants verifying that such money, together with earnings on investments thereof, shall be sufficient for the purposes specified in (1) above; (3) an opinion of Bond Counsel to the effect that such extension of the special mandatory redemption date will not affect the tax exempt status of the Certificates; and (4) an opinion of nationally recognized bankruptcy counsel to the effect that the deposit of funds to obtain the extension described above will not be voidable as a preference.

The Trustee shall use the money in the Lease Transfer Fund to pay the redemption price for Certificates redeemed in accordance with the provisions of this Section 3.03(b).

Section 3.04. Notice of Redemption. Unless waived by any Owner of Certificates to be redeemed, official notice of any such redemption shall be given by the Trustee by mailing a copy of an official redemption notice by first class mail at least 30 days and not more than 45 days (except with respect to a special mandatory redemption pursuant to Section 3.03 hereof for which at least 10 days' notice shall be given by first class mail) prior to the date fixed for redemption to the Owner of such Certificate or Certificates at the address shown on the Certificate Register or at such other address as is furnished in writing by such Owner to the Trustee.

All official notices of redemption shall be dated and shall state:

- (a) the redemption date;
- (b) the redemption price;
- (c) if fewer than all Outstanding Certificates are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Certificates to be redeemed;
- (d) that on the redemption date the redemption price will become due and payable upon each such Certificate or portion thereof called for redemption, and that interest on such Certificates or portion thereof shall cease to accrue from and after said date; and
- (e) the place where such Certificates are to be surrendered for payment of the redemption price, which place of payment shall be the Principal Office of the Trustee.

On or prior to 10:00 a.m. Seattle time on any redemption date, the County in accordance with the Lease shall deposit with the Trustee an amount of money sufficient to pay the redemption price of the Certificates to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Certificates called for redemption shall become due and payable at the redemption price therein specified, and from and after such date (unless the County shall default in the payment of the redemption price) such Certificates or portions of Certificates shall cease to bear interest. Upon surrender of such Certificates for redemption in accordance with said notice, such Certificates shall be paid by the Trustee at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. All Certificates that have been redeemed shall be cancelled and destroyed by the Trustee and shall not be reissued.

Section 3.05. Execution of Certificates. The Certificates shall be executed by the manual signature of an authorized officer of the Trustee. Only such Certificates as shall have been executed manually by the Trustee shall be valid or obligatory for any purpose.

Section 3.06. Book-Entry Provisions. Notwithstanding anything herein to the contrary, the Certificates initially shall be held in fully immobilized form by DTC acting as depository pursuant to the terms and conditions set forth in the Letter of Representations. The Developer, the County or the Trustee shall have no responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Certificates regarding accuracy of any records maintained by DTC or DTC participants of any amount in respect of principal or redemption price of or interest on the Certificates, or any notice that is permitted or required to be given to Owners hereunder (except such notice as is required to be given to the Trustee or to DTC).

The Certificates initially shall be issued in denominations equal to the aggregate principal amount of each maturity and initially shall be registered in the name of CEDE & Co. as the nominee of DTC. The Certificates so registered shall be held in fully immobilized form by DTC as depository. For so long as any Certificates are held in fully immobilized form, DTC, its successor or any substitute depository appointed by the County shall be deemed to be the Owner for all purposes hereunder and all references to Owners, Certificate Owners, registered owners or the like shall mean DTC or its nominees and shall not mean the owners of any beneficial interests in the Certificates. Registered ownership of such Certificates, or any portions thereof, may not thereafter be transferred except:

1. To any successor of DTC or its nominee, if that successor shall be qualified under any applicable laws to provide the services proposed to be provided by it;
2. To any substitute depository appointed by the County, as applicable, pursuant to this subsection or such substitute depository's successor; or
3. To any person as herein provided if the Certificates are no longer held in immobilized form.

Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or a determination by the County to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the County may appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

In the case of any transfer pursuant to clause 1 or 2 of the second preceding paragraph, the Trustee, upon receipt of all outstanding Certificates together with a written request on behalf of the County, shall issue a single new Certificate for each maturity of Certificates then Outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the County.

In the event that DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained; or the County determines that the beneficial owners of the Certificates be able to obtain Certificates in certificated form, the ownership of Certificates may be transferred to any person as herein provided, and the Certificates shall no longer be held in fully immobilized form. The County shall deliver a written request to the Trustee, together with a supply of definitive Certificates, to issue Certificates as herein provided in any authorized denomination. Upon receipt of all then Outstanding Certificates by the Trustee, together with a written request on behalf of the County to the Trustee, new Certificates shall be issued in such denominations and registered in the names of such persons as are requested in such a written request.

For so long as Outstanding Certificates are registered in the name of CEDE & Co., or its registered assigns, as nominee of DTC, payments of principal of and interest on the Certificates shall be made at the place and in the manner provided in the Letter of Representations.

Neither the County nor the Trustee shall have any responsibility or obligation to any direct or indirect participant in DTC, any person claiming a beneficial ownership interest in the Certificates under or through DTC or any such participant, or any other person who is not shown on the Certificate Register as the Owner of a Certificate, with respect to: (1) the Certificates; (2) the accuracy of any records maintained by DTC or any such participant; (3) the payment by DTC or any such participant of any amount in respect of the principal or redemption price of or interest on the Certificates; (4) any notice which is permitted or required to be given to Owners of Certificates under this Trust Agreement; (5) the selection by DTC or any such participant of any person to receive payment in the event of a partial redemption of the Certificates; or (6) any consent given or other action taken by DTC as the registered Owner.

Section 3.07. Registrar. The Trustee shall keep, or cause to be kept, at the Principal Office of the Trustee, sufficient books for the registration and transfer of the rights to receive the Lease Payments evidenced by the Certificates (the "Certificate Register") which shall at all times upon reasonable prior notice be open to inspection by the County. The Trustee is authorized, on behalf of the Developer to execute and deliver the Certificates transferred or exchanged in accordance with the provisions of such Certificates and this Trust Agreement and to carry out all of the Trustee's powers and duties under this Trust Agreement. The Certificate Owner shall be required to pay any tax or other governmental charge required to be paid for any exchange or

registration of transfer and the Certificate Owner shall be required to pay the reasonable fees and expenses of the County and Trustee in connection with the replacement of any mutilated, lost or stolen Certificates.

The Trustee shall be responsible for its representations contained in the Certificate of Execution on the Certificates, but for no other representations or information contained in the Certificates or in the recitals hereof, in the Lease, or in any offering memorandum or other disclosure material prepared or distributed with respect to the Certificates. The Trustee may become the Owner of Certificates with the same rights it would have if it were not the registrar for the Certificates, and to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Certificate Owners. As compensation for its services hereunder, the Trustee shall be paid by the County in Additional Rent payable under the Lease.

Section 3.08. Provision for Payments. The Certificates are payable solely from the Trust Estate, as provided herein, and from payments to be received by the Trustee from the County pursuant to the Lease. The Trustee is obligated only to pass through such payments to Certificate Owners in accordance with their relative interests; the Certificates shall not be obligations of the Trustee.

Section 3.09. Mutilated, Destroyed, Lost or Stolen Certificates. If any Certificate shall become mutilated, the Trustee shall execute and deliver a new Certificate of like tenor and denomination in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of such mutilated Certificate for cancellation, and the Trustee may require reasonable indemnity therefor. If any Certificate shall be reported lost, stolen or destroyed, evidence as to the ownership thereof and the loss, theft or destruction thereof shall be submitted to the Trustee; and if such evidence shall be satisfactory and if indemnity satisfactory to the Trustee shall be requested and given, the Trustee shall execute and deliver a new Certificate of like tenor and denomination. The cost of providing any substitute Certificate under the provisions of this section shall be borne by the Owner for whose benefit such substitute Certificate is provided. If any such mutilated, lost, stolen or destroyed Certificate shall have matured or be about to mature, the Trustee may pay to the Owner the principal amount of such Certificate upon the maturity thereof and the compliance with the aforesaid conditions by such Owner, without the execution and delivery of a substitute Certificate therefor.

All Certificates shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Certificates and shall preclude any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of participations, negotiable instruments or investment or securities without their surrender. The cost of printing any Certificates and any services rendered or any expenses incurred by the Trustee in connection with the exchange or transfer shall be paid by the County as Additional Rent under the Lease.

Section 3.10. Cancellation and Destruction of Surrendered Certificates. Certificates surrendered for payment or redemption, and the Certificates purchased from any money held by

the Trustee hereunder or surrendered to the Trustee for cancellation, shall be canceled and destroyed by the Trustee following payment therefor, provided that no petition in bankruptcy shall have been filed by or against the County and not dismissed in which a court order shall have been entered that specifies another date for cancellation of the Certificates.

Section 3.11. Execution and Delivery of Certificates. The Trustee shall execute and deliver the Certificates following the execution of this Trust Agreement and filing with the Trustee the following:

- (a) a certified copy of an ordinance and motion of the County Council authorizing (1) the execution and delivery of the Lease; and (2) the execution and delivery of this Trust Agreement;
- (b) an original executed counterpart of the Lease and this Trust Agreement;
- (c) an original executed Assignment;
- (d) the deposit of funds by or on behalf of the Developer in accordance with Sections 2.02 and 4.02(b) hereof;
- (e) the verification report required by Section 4.04(b) hereof;
- (f) an approving opinion of Bond Counsel;
- (g) an opinion of counsel satisfactory to Moody's regarding certain bankruptcy matters; and
- (h) any additional opinions of counsel required by Moody's.

Section 3.12. Security for Certificates. The Certificates evidence undivided proportionate beneficial interests in all right, title and interest of the Trustee in the Lease Payments (subject to the terms of the Lease, including the County's pledge of its full faith, credit and resources). The Certificates are not separately secured and are not obligations of the Underwriter, Trustee, or any other entity.

ARTICLE IV

CREATION AND MAINTENANCE OF FUNDS

Section 4.01. Lease Payment Fund.

- (a) Establishment. The Trustee shall establish a special trust fund designated as the "Lease Payment Fund," shall keep such fund separate and apart from all other accounts and money held by it, and shall administer such fund as provided in this Section and Article VI hereof.
- (b) Deposits. In the Lease Payment Fund shall be deposited:

(i) all Lease Payments received by the Trustee from the County under the Lease;

(ii) on each Lease Payment Date prior to the Substantial Completion Date, money transferred from the Lease Transfer Fund in an amount that, together with any funds then on deposit in the Lease Payment Fund, is equal to the interest on the Certificates coming due on such Lease Payment Date;

(iii) on the date of issuance of the Certificates, the sum of \$ _____ received as accrued interest on the Certificates from their date. Accrued interest so deposited shall be credited against the first transfer from the Lease Transfer Fund pursuant to subsection (ii) above;

(iv) money transferred from the Lease Transfer Fund, in accordance with Section 4.02(c)(iii) hereof, on the Lease Transfer Date; and

(v) all other money received by the Trustee under and pursuant to any provision of the Lease, or from any other source, when accompanied by directions from the County that such money is to be paid into the Lease Payment Fund and used to pay the interest on or principal or redemption price of Certificates.

(c) Disbursements. The money deposited in the Lease Payment Fund shall be applied by the Trustee solely for the benefit of the Owners of the Certificates. Prior to the Substantial Completion Date, the Trustee shall use first, the accrued interest on the Certificates deposited in the Lease Payment Fund, and second, money transferred from the Lease Transfer Fund to pay interest on the Certificates. On and after the Substantial Completion Date, to the extent funds available in the Lease Payment Fund are insufficient to pay the next payment when due of principal of or interest on the Certificates, the Trustee shall receive payments from the County as Lease Payments for deposit to the Lease Payment Fund no later than 10:00 a.m. Seattle time on each Lease Payment Date. The Trustee shall give the County not less than 15 days notice of the amount due, if any, on each Lease Payment Date. The County's payments of Lease Payments to the Trustee shall be made in immediately available funds. The Trustee shall promptly distribute any Lease Payments in the Lease Payment Fund to the Owners of the Certificates, in accordance with maturities of the principal components of Lease Payments evidenced by their Certificates and their respective percentages of beneficial ownership interest therein, so that payment may be made to said Owners on the dates and as contemplated by Section 3.01 hereof. Upon the occurrence of an Event of Default, notwithstanding the foregoing, money deposited in the Lease Payment Fund shall be applied as set forth in Section 5.09 hereof.

The money credited to the Lease Payment Fund shall not be commingled, except for investment purposes pursuant to Section 4.04, with any other money held by the Trustee under this Trust Agreement. Any amounts in the Lease Payment Fund remaining after all Certificates are fully paid shall be applied as follows:

FIRST, to reimburse the Trustee for any loss, liability, expense or advance incurred or made, without negligence or bad faith on the part of the Trustee, arising out of or in connection with its acceptance or administration of the trusts established under the Trust Agreement or its performance of its duties as Trustee hereunder or as Lessor under the Lease;

SECOND, to pay any Additional Rent (other than amounts paid to the Trustee in accordance with subparagraph "FIRST" above) or to satisfy any other monetary obligations of the County under the Lease; and

THIRD, to the Developer (if prior to Substantial Completion) or to the County (if after Substantial Completion).

Section 4.02. Lease Transfer Fund.

(a) Establishment. The Trustee shall establish a special trust fund designated as the "Lease Transfer Fund," shall keep such Lease Transfer Fund separate and apart from all other accounts and moneys held by it, and shall administer such Lease Transfer Fund as provided in this Section and Article VI hereof.

(b) Deposits. On the date of issuance of the Certificates, there shall be deposited in the Lease Transfer Fund the sum of \$ _____ from the proceeds of the Certificates and the deposit made by the Developer pursuant to Section 2.02 hereof. The amounts in the Lease Transfer Fund, until applied as hereinafter provided, shall be held as security for all Certificates Outstanding hereunder.

(c) Application of Funds.

(i) Money on deposit in the Lease Transfer Fund shall be used to pay interest on the Certificates prior to the Substantial Completion Date. Prior to the Substantial Completion Date, on each Lease Payment Date, the Trustee shall transfer from the Lease Transfer Fund to the Lease Payment Fund an amount sufficient to pay the interest coming due on the Certificates on such date.

(ii) All money in the Lease Transfer Fund shall be transferred to the Lease Payment Fund on or prior to (1) December 15, 1999, if Substantial Completion has not occurred by December 1, 1999, or (2) an extension date as may be provided for in accordance with Section 3.03(b) hereof, if Substantial Completion has not occurred at least 15 days prior to such extension date, and in any case not later than June 1, 2000, and shall be used to pay for a special mandatory redemption of the Certificates on such date in accordance with Section 3.03(b) hereof.

(iii) If Substantial Completion occurs on or prior to December 1, 1999 (or on or prior to May 15, 2000, if properly provided for in accordance with Section 3.03(b) hereof), then on a Business Day within ten (10) Business Days after the Substantial Completion Date (the "Lease Transfer Date"), the Developer shall transfer all of its right, title and interest in

the Property and all of its remaining right, title and interest in the Lease to the Trustee for the benefit of the Owners by executing and delivering to the Trustee the Assignment and Deed in substantially the form attached as Exhibit A hereto (the "Assignment and Deed"). In consideration for such transfer of the Lease and Property, the Trustee shall pay to the Developer from the Lease Transfer Fund the Lease Transfer Amount. After paying the Lease Transfer Amount, the Trustee shall transfer any money remaining in the Lease Transfer Fund to the Lease Payment Fund, which amounts shall be used to pay interest on and/or principal of the Certificates as the same come due or subject to redemption prior to maturity. Each such payment shall be credited against the County's obligation at the time to make Lease Payments. The terms, conditions and obligations associated with the transfer of the Lease and the Property to the Trustee are set forth in detail in Section 4.05 hereof.

Section 4.03. Deposits and Security Therefor. All money received by the Trustee under this Trust Agreement shall, except as hereinafter provided, be deposited with the Trustee, until invested or deposited as provided in this Article IV. All deposits with the Trustee shall be held by it as required by applicable law for such trust deposits. The Trustee may deposit such money with any other depository which is authorized to receive them and is a qualified public depository under RCW 39.58, as now or hereafter amended, subject to supervision by public authorities. All deposits in any other depository in excess of the amount insured by the Federal Deposit Insurance Corporation or similar U.S. government insurer of deposits shall be deposited with a bank or trust company having a combined capital and surplus of not less than \$50,000,000.

Section 4.04. Investment or Deposit of Funds.

(a) **Lease Payment Fund.** The accrued interest on the Certificates deposited into the Lease Payment Fund upon the initial issuance and delivery of the Certificates shall be invested in the master repurchase agreement described in Section 4.04(b) hereof. The Trustee shall invest all other money held in the Lease Payment Fund at the written direction of the County in Qualified Investments. In the absence of receipt by the Trustee of written direction from the County, the Trustee shall invest funds in investments described in paragraph (vi) of the definition of Qualified Investments herein; provided, however, that if such investments are not available, the Trustee shall hold funds uninvested until written instructions from the County are received. All such investments shall mature not later than the date when the amounts will foreseeably be needed for timely payment of the Certificates or for purposes of this Trust Agreement. The Trustee shall also, at the written direction of the County, sell any such investment and deposit the proceeds in the Lease Payment Fund. All investments directed by the County shall be deemed to be Qualified Investments without independent investigation thereof by Trustee.

If the Trustee has been informed that, or has learned that, an Event of Default as described in Sections 5.01(a) or 5.01(b) hereof has occurred and is continuing, the Trustee shall invest any available money held in the Lease Payment Fund in short-term direct obligations of the United States Government or in Qualified Investments described in (vi) of the definition thereof.

Any securities purchased with money in the Lease Payment Fund shall be deemed part of such fund and, for the purpose of determining the amount of money in such fund, the securities

therein shall be valued at their cost or market, whichever is lower. The proceeds of any such investment (including interest or realized discount) shall be deposited to such fund.

The Trustee may, and to the extent required for payments from the Lease Payment Fund, shall sell without prior notice to the County any such obligation at any time, and the proceeds of such sale, and of all payments at maturity and upon redemption of such investments, shall be held in such fund. The Trustee shall not be liable for losses incurred by reason of purchases or sales of investments made in accordance with this section.

All interest or income received in the Lease Payment Fund shall be held therein with a corresponding credit against the County's obligation to make Lease Payments under the Lease. The Trustee may make any or all investments permitted by the provisions of this Section 4.04 through its own investment department or that of its affiliate and charge its standard investment handling fee. The County acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory agency grant the County the right to receive brokerage confirmations of security transactions, the County waives receipt of such confirmations. The Trustee shall furnish to the County periodic statements which include detail of all investment transactions made by the Trustee.

(b) Lease Transfer Fund. On the date of execution and delivery of the Certificates, the Trustee shall invest all of the money deposited in the Lease Transfer Fund in a repurchase agreement with a provider rated at least Aa by Moody's as directed in writing by Developer, and satisfying also the following requirements: (i) fully secured by (1) direct obligations of the United States of America, (2) obligations the payment of the principal of and interest on which is unconditionally guaranteed by the United States, or (3) general obligations of any agencies or instrumentalities of the United States; (ii) such collateral is held by the Trustee or a custodian acceptable to the Trustee during the term of such repurchase agreement, (iii) such collateral is not subject to liens or claims of third parties, and (iv) such collateral has a market value (determined by the provider at least once every week) at least equal to 100% of the amount of the repurchase obligation. The Trustee shall also receive a report from an independent firm of certified public accountants verifying that the money in the Lease Transfer Fund, together with earnings on investments thereof, shall be sufficient to pay when due all interest due on the Certificates on and prior to December 15, 1999, and to pay the redemption price for the Certificates on December 15, 1999.

Section 4.05. Lease Transfer Matters. An Authorized Representative of the County shall certify the Lease Transfer Amount to the Trustee within 5 Business Days after the Substantial Completion Date. To the extent that it holds money in the Lease Transfer Fund to do so, the Trustee shall be obligated to pay the Developer the Lease Transfer Amount in exchange for the Developer's remaining rights in the Lease and the Property, in accordance with Section 4.02(c)(iii) hereof, and this obligation shall be specifically enforceable by Developer (regardless of an adequate remedy at law).

Developer shall pay all costs and expenses associated with the transfer of the Lease and the Property to the Trustee, including closing costs, escrow fees, title insurance premiums, and

real estate excise taxes. Escrow shall be through a title company selected by Developer and reasonably approved by the County.

Title to the Property shall be transferred to the Trustee free and clear of liens, and subject only to (i) the exceptions permitted by the County, (ii) easements and other restrictions imposed or required to be imposed in connection with obtaining Permits (as defined in the Lease), (iii) utility and similar easements imposed in connection with the construction of the Improvements which do not materially interfere with the use of the Improvements, (iv) easements and restrictions imposed or created with the approval of the County, and (v) the Lease.

Simultaneously with the transfer of the Lease and the Property to Trustee, Developer shall obtain for the benefit of Trustee an owner's standard coverage policy of title insurance, in the amount of the Lease Transfer Amount, showing title to the Property to be vested in Trustee, and subject to no exceptions except the standard preprinted exceptions and the exceptions referenced above. The cost of such title policy shall be paid by Developer.

[If, on the Lease Transfer Date, an insubstantial portion of the work associated with the construction of the Improvements is still not completed (i.e., minor punchlist items remain to be completed), Developer shall deposit into escrow (from the Lease Transfer Amount) 125% of the Developer's estimated cost to complete such construction work, which estimate shall be subject to approval by the County. Such funds shall remain in escrow until the construction work is complete, at which time the escrow funds shall be released to Developer. If the construction work is not completed within 90 days of the Substantial Completion Date, the County shall have the right to use the funds in escrow to complete the remaining construction work. After such work is completed, any excess funds shall be distributed to Developer.]

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES

Section 5.01. Events of Default Defined. Each of the following shall be an Event of Default hereunder:

(a) if any payment of principal or redemption price of any Certificate is not made when it becomes due and payable pursuant to scheduled payment dates or upon call for redemption; or

(b) if any payment of interest on any Certificate is not made when it becomes due and payable; or

(c) if an event of default as defined in Section 18.1 of the Lease occurs, each of which events of default are incorporated herein by this reference.

Section 5.02. Remedies. If any Event of Default occurs and is continuing, subject to its right to indemnity and payment of its fees and costs, as set forth in Section 5.03 hereof, the Trustee may enforce each and every right granted to the Lessor under the Lease or any

supplements or amendments thereto. In exercising such rights and the rights given the Trustee under this Article V, the Trustee shall take such action, as in the judgment of the Trustee, applying the standard described in Section 6.05 hereof, would best serve the interests of the Owners.

Section 5.03. Legal Proceedings by Trustee. If any Event of Default has occurred and is continuing, the Trustee in its discretion may, and upon the written request of the Owners of a majority in aggregate principal amount of Outstanding Certificates and receipt of indemnity to its satisfaction, shall, in its own name:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners, including the right as Lessor under the Lease to collect the amounts payable under the Lease or to enforce any and all provisions of the Lease or this Trust Agreement for the benefit of the Owners;

(b) bring suit upon the Certificates;

(c) take such actions as are allowed by law or in equity to realize upon the Trust Estate;

(d) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Owners.

Prior to commencing any such action, the Trustee may require receipt from the Owners of payment of its fees and expenses, including reasonable fees and disbursements of its counsel, and indemnity satisfactory to it against all potential liability.

Section 5.04. Discontinuance of Proceedings by Trustee. If any proceeding taken by the Trustee on account of any Event of Default is discontinued or is determined adversely to the Trustee, the County, the Trustee and the Owners shall be restored to their former positions and rights hereunder as though no such proceeding had been taken, but subject to the limitations of any such adverse determination.

Section 5.05. Owners May Direct Proceedings. The Owners of a majority in aggregate principal amount of the Certificates Outstanding hereunder shall have the right to direct the method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee provided that such direction shall not be in conflict with any rule of law or with this Trust Agreement or, in the reasonable judgment of the Trustee, be materially prejudicial to Owners not joining therein, and the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; provided, however, that no proceedings by the Trustee or the Owners of Certificates Outstanding shall:

(a) extend the fixed maturity of any Certificate or reduce the rate of interest thereon, or extend the time of payment of interest from their due date, or reduce the amount of

principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the Owner of each Certificate so affected; or

(b) reduce the aforesaid percentage of Certificate Owners required to approve such proceeding or action without the consent of the Owners of all of the Outstanding Certificates.

Section 5.06. Limitations on Actions by Owners. No Owner shall have any right to pursue any remedy hereunder unless:

(a) the Trustee shall have been given written notice of an Event of Default;

(b) the Owners of at least a majority in aggregate principal amount of the Certificates then Outstanding respecting which there has been an Event of Default shall have requested the Trustee, in writing, to exercise the powers hereinabove granted or to pursue such remedy in its or their name or names;

(c) the Trustee shall have been offered indemnity satisfactory to it against costs, expenses and liabilities; and

(d) the Trustee shall have failed to comply with such request within 60 days or such shorter time as shall be reasonable in the circumstances.

Section 5.07. Trustee May Enforce Rights Without Possession of Certificates. All rights under this Trust Agreement and the Certificates may be enforced by the Trustee without the possession of any Certificates or the production thereof at the trial or other proceedings relative thereto, and any proceeding instituted by the Trustee shall be brought in its name for the ratable benefit of all Owners of the Certificates.

Section 5.08. Delays and Omissions Not to Impair Rights. No delay or omission in respect of exercising any right or power accruing upon any Event of Default shall impair such right or power or be a waiver of such Event of Default and every remedy given by this Article may be exercised from time to time and as often as may be deemed expedient.

Section 5.09. Application of Money in Event of Default after Substantial Completion. Any money received by the Trustee under this Article V after Substantial Completion shall be applied as follows:

FIRST, to reimburse Trustee for any loss, liability, expense or advance (including reasonable attorneys' fees) incurred or made, without negligence or bad faith on the part of Trustee, arising out of or in connection with its acceptance or administration of the trusts established under the Trust Agreement or its performance of its duties as Trustee hereunder or as Lessor under the Lease;

SECOND, ratably, to satisfy Lease Payments and Additional Rent (other than amounts paid to the Trustee in accordance with subparagraph "FIRST" above) then due; and

THIRD, to the County.

Upon termination of this trust, the surplus, if any, shall be paid to the County or the person or persons lawfully entitled to receive the same as a court of competent jurisdiction may direct.

Section 5.10. Money Held by Trustee One Year After Due Date. Money or investments held by the Trustee in trust for the payment and discharge of any of the Certificates which remain unclaimed for one (1) year after the date when such Certificates shall have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such money is held by the Trustee at such date or for one year after the date of deposit of such money if deposited with the Trustee after the said date when such Certificates become due and payable, shall at the written request of the County be repaid by the Trustee to the County as the County's property, and the Trustee shall thereupon be released and discharged with respect thereto, and the Owners of the Certificates payable from such money shall look only to the County for the payment of such Certificates.

Section 5.11. Trustee's Right to Receiver and to File Proof of Claim. The Trustee shall, to the extent permitted by law, be entitled as of right to the appointment of a receiver; and the Trustee, the Owners and any receiver so appointed shall have such rights and powers and be subject to such limitations and restrictions as may be contained in or permitted by the law. In the event of any receivership, insolvency, bankruptcy, reorganization, or other judicial proceeding affecting the County or the Developer, the Trustee shall be entitled to file such proofs of claim and other documents in order to have the claims of the Owners of the Certificates allowed in such proceedings for the entire amount due and payable under this Trust Agreement at the date of institution of such proceedings and for any additional amount that may thereafter become due after such date, without prejudice, however, to the right of any Certificate Owner to file a claim on its own behalf. The Trustee shall not be obligated to take any such action unless it receives payment of its fees and expenses, including fees and disbursements of its counsel, and satisfactory indemnity against any potential liability.

Section 5.12. Trustee and Owners Entitled to All Remedies Under Law; Remedies Not Exclusive. It is the purpose of this Article to provide to the Trustee and Owners all rights and remedies as may be lawfully granted under the provisions of law, but should any remedy herein granted be held unlawful, the Trustee and the Owners shall nevertheless be entitled to every lawful remedy. It is further intended that, insofar as lawfully possible, the provisions of this Article V shall apply to and be binding upon any trustee or receiver appointed.

No remedy herein conferred is intended to be exclusive of any other remedy or remedies, and each remedy is in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

ARTICLE VI

THE TRUSTEE

Section 6.01. Acceptance of Trust. The Trustee accepts and agrees to execute the trusts created by this Trust Agreement, the Assignment and the Assignment and Deed, but only upon the additional terms set forth in this Article VI, to all of which the parties hereto, the County and the Owners agree.

Section 6.02. Trustee May Act Through Agents; Answerable Only for Willful Misconduct or Negligence. The Trustee may exercise any powers hereunder and perform any duties required of it pursuant to this Trust Agreement through attorneys, agents, receivers, affiliates, officers or employees, and shall not be responsible for the acts or omissions of attorneys, agents, or receivers not affiliated with the Trustee if selected by the Trustee with reasonable care, and shall be entitled to advice of counsel concerning all questions hereunder. The Trustee shall not be answerable for the exercise of any discretion or power under this Trust Agreement nor for anything whatever in connection with the trust hereunder, except only its own willful misconduct or negligence or that of its affiliates, officers and employees. The Trustee may consult with counsel reasonably acceptable to the County, and the advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith in accordance with such advice or opinion of counsel. The Trustee shall not be responsible for any loss or damage resulting from any action or inaction in good faith in reliance upon such opinion or advice. The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty. All money received by the Trustee shall, until used or applied as herein provided, be held in trust for the purpose for which it was received. Neither the Trustee nor any paying agent shall be under any liability for interest on any money received by it hereunder. No provision in this Trust Agreement shall require the Trustee to advance, expend, or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or exercise any of its powers hereunder.

Section 6.03. Compensation. The Trustee shall receive from the Developer as compensation for its services hereunder and under the Lease an acceptance fee of \$3,500, administrative fees payable in advance of \$_____ (provided, however, that a pro rata share of such fees shall be remitted to the successor Trustee if the Trustee resigns or is replaced prior to December 15, 1999), and legal fees of \$2,500. Administrative fees, if any, due and payable after December 15, 1999 shall be paid by the County according to the fee schedule submitted at or prior to closing, for so long as the Certificates or any of them are Outstanding. In addition, in accordance with the Lease, the Trustee shall be entitled to payment and/or reimbursement from the Developer, prior to Substantial Completion, or the County, after Substantial Completion, for reasonable fees for its services rendered hereunder, disbursements and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee (including the reasonable compensation and the expenses and disbursements of its counsel and all persons not regularly in its employ), in connection with such services hereunder and, in the event that it should become necessary that the Trustee perform extraordinary services, it shall be entitled to reasonable extra compensation therefor from the Developer, prior to Substantial Completion, or the County, after Substantial Completion, and to reimbursement from the Developer or the

County, as the case may be, for reasonable and necessary extraordinary expenses in connection therewith; provided, that if such extraordinary services are due to the willful misconduct or negligence of the Trustee, it shall not be entitled to compensation or reimbursement therefor. Upon an Event of Default hereunder, but only upon an Event of Default, the Trustee shall have a first lien upon the Trust Estate for the foregoing fees and expenses incurred by it.

Section 6.04. Notice of Default: Right to Investigate. Within 30 days after the occurrence of an Event of Default as defined in clauses (a) and (b) of Section 5.01 hereof, and within 30 days after the later of the occurrence of an Event of Default as defined in clause (c) of Section 5.01 hereof or receipt by the Trustee of notice that an Event of Default as defined in clause (c) of Section 5.01 hereof has occurred, the Trustee shall, unless such Events of Default have been remedied to the Trustee's satisfaction, give written notice by first class mail to Owners of Certificates, of all Events of Default known to the Trustee and send a copy of such notice to the County (the term Events of Default for purposes of this Section 6.04 and Section 6.05 hereof being defined to include the events specified in clauses (a) through (c) of Section 5.01 hereof, not including any notice or periods of grace provided for therein); provided that, except in the case of an Event of Default under clauses (a) or (b) of Section 5.01, the Trustee may withhold such notice so long as it in good faith determines that such withholding is in the interest of the Owners. The Trustee shall not be deemed to have notice of any default unless it has actual knowledge thereof or has been notified in writing of such default by the Owners of at least a majority in aggregate principal amount of the Certificates then Outstanding. The Trustee may, however, at any time require of the County full information as to the performance of any covenant hereunder; and, if information satisfactory to it is not forthcoming, the Trustee may make or cause to be made an investigation into the affairs of the County related to this Trust Agreement and the Lease.

Section 6.05. Duties and Responsibilities. Except during the continuance of an Event of Default, the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee and in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates and opinions furnished to the Trustee and conforming to the requirements of this Trust Agreement. If any Event of Default shall have occurred and be continuing, the Trustee shall exercise such of the rights and remedies vested in it by this Trust Agreement and shall use the same degree of care in their exercise as a prudent person would exercise or use in the circumstances in the conduct of his or her own affairs; provided, that if in the opinion of the Trustee such action may tend to involve expense or liability, it shall not be obligated to take such action unless it is first furnished with indemnity against potential liability, and payment of its fees and expenses, including reasonable fees of its counsel, satisfactory to it.

The Trustee shall not be liable and shall be held harmless with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of Certificates evidencing not less than a majority in aggregate principal amount of Certificates at the time Outstanding, related to the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Trust Agreement or the Lease. The Trustee shall not be responsible for the sufficiency

or form of any insurance maintained on the Property and may rely conclusively upon any certificate regarding insurance provided to it under the Lease. The Trustee shall have no duties with respect to the calculation or review of rebate or the filing of any rebate report.

Section 6.06. Reliance on Requisition, Etc. The Trustee may act on any requisition, resolution, notice, telegram, request, consent, waiver, certificate, statement, affidavit, voucher, bond, or other paper or document which it in good faith believes to be genuine and to have been passed or signed by the proper persons or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement; and the Trustee shall be under no duty to make any investigation as to any statement contained in any such instrument, but may accept the same as conclusive evidence of the accuracy of such statement.

Section 6.07. Construction of Ambiguous Provisions. The Trustee may construe any ambiguous or inconsistent provisions of this Trust Agreement or the Lease, and any such construction by the Trustee shall be binding upon the Owners.

Section 6.08. Resignation of Trustee. The Trustee may resign and be discharged of the trusts created by this Trust Agreement by written resignation filed with the County no fewer than 60 days before the date when it is to take effect. Such resignation shall take effect only upon the appointment of a successor Trustee. If no successor Trustee shall have been appointed within 45 days of giving notice as aforesaid, the resigning Trustee may petition a court of competent jurisdiction for the appointment of a successor Trustee, and which court may thereupon appoint such successor Trustee. In accordance with Section 6.03 hereof, if the Trustee resigns pursuant to this Section 6.08 and a successor Trustee is appointed prior to December 15, 1999, the Trustee shall remit to such successor Trustee a pro rata share of the advance fees paid to the Trustee in accordance with Section 6.03 hereof.

Section 6.09. Removal of Trustee. The Owners of a majority in aggregate principal amount of the Certificates then Outstanding may on 30 days' written notice given to the Trustee, the Developer (if prior to the Substantial Completion Date), and the County, replace the Trustee or any successor thereto, and may appoint a successor thereto, which successor shall be a bank or trust company meeting the requirements set forth herein. In accordance with Section 6.03 hereof, if the Trustee is removed pursuant to this Section 6.09 and a successor Trustee is appointed prior to December 15, 1999, the Trustee shall remit to such successor Trustee a pro rata share of the advance fees paid to the Trustee in accordance with Section 6.03 hereof.

Section 6.10. Appointment of Successor Trustee. If the Trustee or any successor Trustee resigns or is removed (other than pursuant to Section 6.09 hereof) or dissolved, or if its property or business is taken under the control of any state or federal court or administrative body, a vacancy shall forthwith exist in the office of the Trustee, and the County shall appoint a successor. If the County fails to make such appointment within 60 days after the date notice of resignation is filed, or after the effective date of the Trustee's removal or dissolution and no appointment has previously been made pursuant to Section 6.08 hereof, the Owners of a majority in aggregate principal amount of the Certificates then Outstanding may do so.

Section 6.11. Qualification of Successor. A successor Trustee shall be a national bank with trust powers or a bank and trust company or a trust company, in each case having capital and surplus of at least \$50,000,000, if there be one able and willing to accept the trust on reasonable and customary terms.

Section 6.12. Instruments of Succession. Any successor Trustee shall execute, acknowledge and deliver to the County and to the Developer (if prior to the Substantial Completion Date) and the Trustee an instrument accepting such appointment hereunder; and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all the estates (including the Trust Estate), properties, rights, powers, trusts, duties and obligations of its predecessor in the trust hereunder, with like effect as if originally named Trustee herein. The Trustee ceasing to act hereunder shall pay over to the successor Trustee all money held by it hereunder; and, upon request of the successor Trustee, the Trustee ceasing to act and the County shall execute and deliver an instrument transferring to the successor Trustee all the estates (including the Trust Estate), properties, rights, powers and trusts hereunder of the Trustee ceasing to act. The County shall be provided with a copy of each instrument mentioned herein.

Section 6.13. Merger of Trustee. Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, or any company to which Trustee may sell or transfer all or substantially all of its corporate trust business, shall be the successor Trustee under this Trust Agreement, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding. Notice of such merger or consolidation shall be given to the County. If such corporation fails to be eligible to serve as Trustee under Section 6.11, then the Trustee must comply with the resignation procedures set forth in Section 6.08.

Section 6.14. Survival of Rights. The Trustee's rights to immunities, indemnifications and protection from liability hereunder, under the Lease, and under the Environmental Indemnity Agreement, and its rights to payment of its fees and expenses shall survive its resignation or removal, the final payment or the defeasance of the Certificates and the termination of the Lease.

Section 6.15. Representation and Covenants of the Trustee. (i) THE TRUSTEE WILL NOT BE REQUIRED TO MAKE ANY INSPECTION OF THE PROPERTY, AND THE TRUSTEE SHALL, PURSUANT TO THE LEASE, LEASE THE PROPERTY AS IS, AND THE TRUSTEE (WHETHER ACTING AS TRUSTEE HEREUNDER OR AS LESSOR UNDER THE LEASE OR IN ITS INDIVIDUAL CAPACITY) HAS MADE, MAKES AND SHALL BE DEEMED TO HAVE MADE, NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, COMPLIANCE WITH SPECIFICATIONS, CONDITION, MERCHANTABILITY, DESIGN, QUALITY, DURABILITY, ENVIRONMENTAL CONDITION, OPERATION OR FITNESS FOR USE OR PURPOSE OF THE PROPERTY OR ANY COMPONENT PART THEREOF (EXCEPT THAT THE TRUSTEE, IN THE CASE OF A SUCCESSOR TRUSTEE, ON THE DATE OF TRANSFER TO IT OF TITLE TO THE PROPERTY, SHALL POSSESS WHATEVER TITLE TO THE PROPERTY THEREOF WAS TRANSFERRED TO IT), (ii) the Trustee makes no

representation or warranty as to the validity, legality or enforceability of this Trust Agreement (except with respect to its enforceability against the Trustee), any agreement, certificate or document referred to herein or involved in the transactions contemplated by this Trust Agreement, or as to the correctness of any statement contained in any such agreement, certificate or document, (iii) the Trustee makes no other representation or warranty relating to the transactions contemplated by this Trust Agreement not expressly set forth in this Trust Agreement or by the Trustee in any agreement, certificate or document referred to herein or involved in the transactions contemplated by this Trust Agreement, except that the Trustee represents and warrants for the benefit of the Underwriter and each Owner that this Trust Agreement has been, and the Lease and Certificates to be signed by the Trustee, have been or will be, executed and delivered by one or more of its officers who are, or at the time of execution and delivery were or will be, duly authorized to effect such execution and delivery on its behalf, and (iv) the Trustee in its individual capacity covenants and agrees, at its own expense, promptly to take such action as may be necessary duly to discharge or bond or eliminate any lien on the Property (A) arising as a result of claims against the Trustee not related to the transactions contemplated by this Trust Agreement or (B) related to the Trustee's willful misconduct or negligence in administering the Property.

Section 6.16. Compliance with Continuing Disclosure Requirements. Pursuant to Section 7 of Ordinance No. _____ of the County (the "Undertaking"), the County has undertaken responsibility to comply with the continuing disclosure requirements of an "Obligated Person" with respect to the Certificates as set forth in Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. Notwithstanding any other provision of this Trust Agreement, failure of County to comply with the Undertaking shall not be considered an Event of Default hereunder; however, the Trustee may (and, subject to receipt of indemnity and payment of its fees and expenses, as provided in Section 5.03 hereof, at the request of the Owners of a majority in aggregate principal amount of the Certificates Outstanding, shall) or any Owner of Certificates may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the County to comply with its obligations under the Undertaking.

ARTICLE VII

ACTS OF OWNERS: EVIDENCE OF OWNERSHIP OF CERTIFICATES

Section 7.01. Actions of Owners: Evidence of Ownership. Any action to be taken by Owners may be evidenced by one or more concurrent written instruments of similar tenor signed or executed by such Owners in person or by an agent appointed in writing. The fact and date of the execution by any person of any such instruments may be proved by acknowledgment before a notary public or other officer empowered to take acknowledgments or by an affidavit of a witness to such execution. Any action by the Owner of any Certificate shall bind all future Owners of the same Certificate in respect of anything done or suffered by the County or the Trustee in pursuance thereof.

ARTICLE VIII

AMENDMENTS AND SUPPLEMENTS

Section 8.01. Amendments and Supplements Without Owners' Consent. This Trust Agreement may be amended or supplemented at any time and from time to time, without notice to or the consent of the Owners, by delivery of an amendment requested by Bond Counsel filed with the Trustee, for the purpose of curing any ambiguity or curing, correcting or supplementing any defective provision of this Trust Agreement in such manner as shall not be inconsistent with this Trust Agreement and shall not impair the security hereof or materially adversely affect the Owners. As a condition of its effectiveness, any such request shall be accompanied by (1) a consent by the County to such, which consent shall not be unreasonably withheld; and (2) an opinion of Bond Counsel that such change shall not impair the tax-exempt status of interest on the Certificates, and is not in violation of any law; provided further, that no such change may adversely or materially impair the County's obligations under the Lease.

Section 8.02. Amendments with Owners' Consent. This Trust Agreement may be amended from time to time, except with respect to (1) the principal or interest payable upon any Certificate, (2) the dates of maturity or redemption provisions of any Certificates, and (3) this Article VIII, by a supplemental trust agreement approved by the Owners of at least a majority in aggregate principal amount of the Certificates then Outstanding; provided, that no amendment shall be made which affects the rights of some but fewer than all the Outstanding Certificates without the consent of the Owners of Certificates evidencing a majority in aggregate principal amount of the Certificates so affected, and provided further that no amendment shall:

(a) extend the fixed maturity of the principal of any Certificates or reduce the rate of interest thereon, or extend the time of payment of interest from their due date, or reduce the amount of principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the Owner of each Certificate so affected; or

(b) reduce the aforesaid percentage of Certificate Owners required to approve such proceeding or action without the consent of the Owners of all of the Outstanding Certificates, and provided further that no amendment shall become effective without a consent by the County thereto being placed on file with the Trustee, which consent shall not be unreasonably withheld.

Section 8.03. Amendment of Lease. Without the consent of the Owners, the Lease may be amended (i) to reduce the size of the Land, in accordance with Section 1.2 of the Lease, or (ii) to make any change that, in the opinion of Bond Counsel, provided to the Trustee, would not adversely affect the interests of the Owners, any other amendment of the Lease shall not become effective without the consent thereto of the Owners of at least a majority in aggregate principal amount of the Certificates then Outstanding; provided, that without the unanimous consent of all Owners of Certificates then Outstanding, no amendment to the Lease shall (1) decrease the amounts payable under the Lease, (2) change the date of payment or prepayment provisions under the Lease, or (3) change any provisions with respect to amendment; and further provided, that no amendment shall be consented to which affects the rights of some but fewer than all the

Outstanding Certificates without the consent of the Owners of Certificates evidencing at least 66-2/3% in aggregate principal amount of the Certificates so affected.

Section 8.04. Trustee Authorized to Join in Amendments and Supplements: Reliance on Counsel. The Trustee is authorized to join with the Certificate Owners in the execution and delivery of any supplemental agreement or amendment permitted by this Article VIII and in so doing may request and shall be fully protected by an opinion of Bond Counsel that such supplemental trust agreement or amendment is so permitted and has been duly authorized by the County and that all things necessary to make it a valid and binding agreement have been done. The Trustee's consent shall be required in the event of amendment or supplement hereto under Sections 8.01, 8.02, 8.03 or any other provision hereunder affecting its rights or duties hereunder.

Section 8.05. Notice to Rating Agency. The Trustee shall give written notice of any supplemental agreement or amendment to this Trust Agreement or the Lease to Moody's Investors Service, 99 Church Street, New York, NY 10007, Attention: Public Finance.

ARTICLE IX

DEFEASANCE

Section 9.01. Defeasance. If the principal or prepayment and redemption price (as the case may be) of, and interest on, any of the Certificates executed and delivered hereunder has been paid, or provision has been made for the payment of the same in the manner stipulated in this Trust Agreement, then such Certificates shall cease to be entitled to any lien, benefit or security under this Trust Agreement or the Lease, and all covenants, agreements and obligations of the County with respect to payment of the Lease Payments evidenced by the Certificates shall thereupon cease, terminate and become void and be discharged and satisfied.

If such payment or provision therefor has been made with respect to all of the Certificates as provided in this Section 9.01 or the County exercises its option to purchase the Property under Article XII of the Lease, then the Trustee's right, title and interest in the Property and the Lease shall thereupon cease, and the Trustee shall release the Trust Estate and this Trust Agreement in respect thereto and shall execute such documents to evidence such release as may be reasonably required by the County and after the payment of any amounts owed to the Trustee shall turn over to the County or its assigns all balances then held by it hereunder not required for the payment of the Certificates. Without limiting the generality of the foregoing, provision for the payment of Lease Payments and Certificates shall be deemed to have been made when the Trustee shall hold in the Lease Payment Fund for payment of interest on the Lease Payments evidenced by the Certificates when due and payment of the principal component of the Lease Payments evidenced by the Certificates when due (whether at maturity or upon prepayment or otherwise) (i) cash in an amount sufficient to make all payments specified above, or (ii) non-callable direct obligations of the United States of America, maturing on or before the date or dates when the payments specified above shall become due and/or on demand of the Trustee, the principal amount of which and the interest thereon, when due, is or will be, in the aggregate, sufficient without reinvestment to make all such payments, or (iii) any combination of cash and such obligations, as verified in a report prepared by an independent firm of certified public accountants. The obligations and

money deposited with the Trustee pursuant to this Section shall be segregated by it and held in trust for the payment of the principal of, redemption price and interest on said Certificates.

Section 9.02. Transfer of Title to Property. Upon the payment in full of all principal components of the Lease Payments and interest thereon, or provision therefor, termination of the Lease in accordance with its terms, and upon request of the County, the Trustee is authorized and directed to deliver and transfer to the County as provided in Section 12.3 of the Lease documents evidencing title to the Property and to release the Trust Estate.

ARTICLE X

FORM OF CERTIFICATES

Section 10.01. Form of Certificates. The Certificates shall be in substantially the following form:

No. R- _____ \$ _____

UNITED STATES OF AMERICA

STATE OF WASHINGTON

CERTIFICATE OF PARTICIPATION, 1998

EVIDENCING UNDIVIDED PROPORTIONATE BENEFICIAL INTERESTS
IN GENERAL OBLIGATION LEASE PAYMENTS BY KING COUNTY, WASHINGTON,
AS LESSEE PURSUANT TO A LEASE
(ISSAQUAH DISTRICT COURT PROJECT)

Registered Owner: _____

Interest Rate: _____

Maturity Date of Lease Payments: _____

Principal Sum of Lease Payments: _____

CUSIP: _____

This is to certify that the Registered Owner named above is the Registered Owner of the following interest in the right to receive a portion of certain Lease Payments (the "Lease Payments") to be paid by King County, Washington (the "County") under a Lease dated February __, 1998, (the "Lease"), entered into by and between Issaquah Courthouse, LLC (the "Developer"), as initial lessor, and the County, as lessee, of certain real property, together with improvements thereon (the "Property") under the Lease. The Developer's interests in the Lease Payments have been assigned to First Trust National Association, Seattle, Washington (the "Trustee") by an Assignment Agreement dated as of February 15, 1998, to hold pursuant to the terms of a trust agreement between the Developer and the Trustee, and approved and accepted by the County, dated as of February 15, 1998 (the "Trust Agreement") for the benefit of the owners of certificates of participation evidencing undivided proportionate beneficial interests in the Lease Payments (the "Certificates"). When such improvements have been completed, the Developer will convey all remaining right, title and interest in the Lease and all of its right, title and interest

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in and to the Property to the Trustee to be held in trust for the benefit of the owners from time to time of the Certificates.

The Registered Owner is entitled to receive, subject to the terms of the Lease, on the Maturity Date specified above, the Principal Sum of Lease Payments specified above, representing a portion of the principal component of the Lease Payments owing under the Lease, and to receive interest on such Principal Sum from the date hereof, or the most recent date to which interest has been paid or duly provided for, at the Interest Rate specified above, payable on June 1, 1998, and semiannually on each June 1 and December 1 thereafter, to and including the Maturity Date specified above.

All amounts payable hereunder are payable in lawful money of the United States of America. The Principal Sum payable under this Certificate shall be payable upon presentation and surrender of this Certificate at the Principal Office of the Trustee. Interest payable under this Certificate is payable by check or draft mailed by first-class mail on the date such interest is due by the Trustee to the Registered Owner of this Certificate at the address appearing on the records maintained by the Trustee as of the 15th day of the month preceding the interest payment date. Notwithstanding the foregoing, as long as the Certificates are registered in the name of Cede & Co., or its registered assigns, as nominees of The Depository Trust Company ("DTC"), payments of principal of and interest on this Certificate will be made on the date such money is due and payable at the place and in the manner, and notice shall be given, as provided in the Letter of Representations to DTC.

THE OBLIGATION OF THE COUNTY TO MAKE THE LEASE PAYMENTS FROM SOURCES OTHER THAN PREPAID RENT BEGINS ONLY AFTER SUBSTANTIAL COMPLETION OF THE IMPROVEMENTS. The Lease Payments are limited tax general obligations of the County. The County has pledged under the Lease to include in its budget and levy taxes, within and as a part of the tax levy permitted to counties without a vote of the people upon all property within the County subject to taxation, in an amount sufficient, together with all other money legally available therefor, to pay the Lease Payments as the same shall become due. The full faith, credit and resources of the County are irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of the Lease Payments.

This Certificate is transferable only on the records maintained by the Trustee for that purpose upon the surrender of this Certificate by the Registered Owner and only if endorsed in the manner provided hereon, and thereupon a new fully registered Certificate shall be executed and delivered to the transferee in exchange therefor.

ADDITIONAL PROVISIONS OF THIS CERTIFICATE APPEAR ON THE REVERSE SIDE HEREOF; SUCH PROVISIONS HAVE THE SAME EFFECT AS IF THEY WERE PRINTED HEREIN.

THIS CERTIFICATE SHALL NOT BE VALID UNLESS PROPERLY EXECUTED BY THE TRUSTEE IN THE SPACE INDICATED BELOW.

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CERTIFICATE OF EXECUTION

This is one of the Certificates of Participation in the Lease Payments due under the Lease described herein, and is properly registered and executed pursuant to the Trust Agreement.

Date of Execution:

FIRST TRUST NATIONAL ASSOCIATION, as Trustee

By _____ Authorized Officer

ADDITIONAL PROVISIONS

This Certificate and other Certificates of this issue of like date and tenor, except as to interest rate and date of maturity, evidence undivided, proportionate beneficial interests in certain Lease Payments due from the County under the Lease and are executed and delivered in the aggregate principal amount of \$ _____, pursuant to the terms of the Trust Agreement.

This Certificate has been executed by the Trustee. All right, title and interest of the Lessor in the Lease Payments are held by the Trustee pursuant to the terms of the Trust Agreement.

The Trustee's liability to the Registered Owner hereof shall consist of the duty to remit to the Registered Owner his or her pro rata share of the Lease Payments when, as and if collected from the County pursuant to the Lease. The Trustee's only obligations are to hold the Lease, the proceeds of sale of the Certificates (until paid to Developer) and title to the Property (when conveyed by the Developer) for the benefit of the owners of the Certificates, and to administer for the benefit of the Certificate Owners the various funds and accounts established in the Trust Agreement. In the event of default by the County in the payment of principal or interest components of the Lease Payments, the Registered Owner of this certificate has no recourse against the Trustee therefor.

Copies of the Trust Agreement, Lease, Assignment, Assignment and Deed are on file at the Principal Office of the Trustee and at King County, Washington. Reference to the Trust Agreement, Lease, Assignment, Deed and any and all amendments thereto is made for a description of the covenants of the County securing the Lease Payments, the nature, extent and manner of enforcement of such covenants, the rights and remedies of the Registered Owners of the Certificates with respect thereto and the other terms and conditions upon which the Certificates are delivered thereunder.

Certificates maturing prior to December 1, 2008, are not subject to optional redemption prior to their scheduled maturity. Certificates maturing on and after December 1, 2008, are subject to redemption at the option of the County on June 1, 2008, and on any day thereafter, in

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whole or in part (and if in part in inverse order of maturities and by lot within a maturity), at a price of par plus accrued interest to the date of redemption.

Notice of such redemption shall be given by first class mail no more than 45 nor less than 30 days prior to the date of redemption.

THE CERTIFICATES ARE ALSO SUBJECT TO SPECIAL MANDATORY REDEMPTION ON TEN DAYS' NOTICE ON TERMS AND CONDITIONS AS SET FORTH IN THE TRUST AGREEMENT.

In the event a portion of the principal component of Lease Payments evidenced by a Certificate is prepaid, there shall be executed and delivered to the registered Owner, without charge therefor, for the then unprepaid balance of the principal component of the Lease Payments evidenced thereby, a new Certificate or Certificates, of like maturity and bearing interest on the principal component of the Lease Payments evidenced by the Certificate, in any denomination authorized by the Trust Agreement.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto, with the consent of the County, in some instances without the consent of the Owners of Certificates.

The ownership of this Certificate must be registered upon the books of the Trustee as provided in the Trust Agreement. The Trustee may treat the Registered Owner hereof as the absolute Owner hereof for all purposes, and the Trustee shall not be affected by any notice to the contrary other than proper notice of assignment.

This Certificate is transferable only on the records maintained by the Trustee for that purpose upon the surrender of this Certificate by the Registered Owner and only if endorsed in the manner provided hereon, and thereupon a new fully registered Certificate shall be executed and delivered to the transferee in exchange therefor.

The following abbreviations, when used in the inscription on the face of the within Certificate, shall be construed as though they were written out in full according to applicable laws or regulations.

- TEN COM - as tenants in common
- TEN ENT - as tenants by the entireties
- JT TEN - as joint tenants with right of survivorship
and not as tenants in common

UNIF GIFT (TRANSFER) MIN ACT - _____ Custodian _____
(Custodian) (Minor's Name)

under Uniform Gifts (Transfers) to Minors Act _____
(State)

Additional abbreviations may also be used though not in list above.

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FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____

PLEASE INSERT SOCIAL SECURITY OR TAXPAYER
IDENTIFICATION NUMBER OF TRANSFEREE

[Empty box for Social Security or Taxpayer Identification Number]

(Please print or typewrite name and address, including zip code of Transferee.)

the within certificate and all rights thereunder and does hereby irrevocably constitute and appoint
of _____, or its
successor, as Agent to transfer said certificate on the books kept by the Trustee for registration
thereof with full power of substitution in the premises.

DATED: _____

SIGNATURE GUARANTEED:

NOTICE: Signature(s) must be
guaranteed pursuant to law.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01. No Personal Recourse. No recourse shall be had for any claim based on this Trust Agreement or the Certificates, including but not limited to the payment of the principal or prepayment price of, or interest on, the Lease Payments evidenced by Certificates, against any officer, agent or employee, past, present or future, of the County or of any successor body, as such, either directly or through the County or any such successor body, under any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or by any legal or equitable proceeding or otherwise.

Section 11.02. No Rights Conferred on Others. Nothing herein contained shall confer any right upon any person other than the parties hereto, the County and the Owners.

Section 11.03. Illegal, Etc. Provisions Disregarded. In case any provision in this Trust Agreement or the Certificates shall for any reason be held invalid, illegal or unenforceable in any respect, this Trust Agreement shall be construed as if such provision had never been contained herein.

Section 11.04. Notices. Any notice to or demand upon the Developer, the Trustee or the County shall be deemed to have been sufficiently given or served for all purposes by being sent by registered mail, by telegram or by telefax confirmed in writing by first-class mail, and addressed to the parties, respectively, or at such other address as may be filed in writing by such parties to the others as follows:

To the Developer:

Issaquah Courthouse, LLC
c/o Langley Associates, Inc.
3633 - 136th Pl. S.E.
Suite 205
Bellevue, Washington 98006
Attention: Russell Keithly

To the Trustee:

First Trust National Association
Two Union Square, Suite 2120
601 Union St.
Seattle, Washington 98101
Attention: Dawnita Brown

To the County:

King County
County Administration Building, Room 611
500 Fourth Avenue
Seattle, Washington 98104
Attention: Finance Director

Section 11.05. Successors and Assigns. All the covenants, promises and agreements in this Trust Agreement contained by or on behalf of the parties hereto, shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

Section 11.06. Headings for Convenience Only. The descriptive headings in this Trust Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

Section 11.07. Counterparts. This Trust Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same instrument.

Section 11.08. Title and Security Documents. The County shall cause this Trust Agreement and title documents and/or a financing statement relating thereto under the Uniform Commercial Code of the State of Washington to be filed, as may be required by law fully to protect the right, title and interest of the Trustee in the Lease and in title to the Property held pursuant to this Trust Agreement, the Assignment, and the Assignment and Deed. The Developer and the County shall execute or cause to be executed any and all further instruments as may be required by law or as shall reasonably be requested by the Trustee for such protection of the interests of the Trustee and the Owners, and at the request of the Trustee shall furnish satisfactory

evidence to the Trustee of filing and refiling of such instruments and of every additional instrument which shall be necessary to preserve the lien of this Trust Agreement upon the rights and interests assigned to the Trustee under this Trust Agreement until the principal, or redemption price of, and interest on the Certificates executed and delivered hereunder shall have been paid. The Trustee shall execute or join in the filing thereof at such time or times and in such place or places as it may be advised by an opinion of Counsel will preserve the lien of this Trust Agreement upon the rights and interests assigned to the Trustee under this Trust Agreement until the aforesaid principal shall have been paid.

Section 11.09. Information Under Commercial Code. The following information is stated in order to facilitate filings under the Uniform Commercial Code, if necessary:

The title holder (or secured party, if applicable) is First Trust National Association, Trustee. Its address from which information concerning the security interest may be obtained is: Two Union Square, Suite 2120, 601 Union St., Seattle, Washington 98101, Attention: Corporate Trust. The debtor is King County, Washington. Its mailing address is County Administration Bldg. Room 611, 500 Fourth Avenue, Seattle, Washington 98104, Attention: Finance Director.

Section 11.10. Payments Due on Saturdays, Sundays and Holidays. In any case where the date of payment of interest on or principal of the Certificates or the date fixed for redemption of any or all of the Certificates or the date for performance of any act is not a Business Day, then payment of interest or principal or redemption price need not be made on such date, nor the act performed on such date, but shall be made or performed on the next succeeding Business Day with the same force and effect as if made on the due date or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 11.11. Applicable Law. This Trust Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

IN WITNESS WHEREOF, the parties have executed this Trust Agreement as of the day and year first above written.

ISSAQUAH COURTHOUSE, LLC, a
Washington limited liability company

By _____
Its _____

FIRST TRUST NATIONAL
ASSOCIATION, as Trustee

By _____
Trust Officer

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FORM OF APPROVAL BY COUNTY

King County, Washington (the "County"), hereby acknowledges, approves and consents to the terms of this Trust Agreement and accepts its rights and obligations hereunder.

Dated this ____ day of _____, 1998.

KING COUNTY, WASHINGTON

By _____
Finance Director

Attest:

Clerk of the Council

[Seal]

EXHIBIT A

FORM OF ASSIGNMENT AND DEED

WHEREAS, King County, Washington (the "County") and Issaquah Courthouse, LLC, a Washington limited liability company (the "Developer") have entered into a certain Lease dated as of February ____, 1998, (the "Lease") for the lease by the County of certain real property legally described on Exhibit A hereto (the "Land") together with improvements thereon to be constructed by Developer (the "Improvements") (collectively, the "Property"); and

WHEREAS, the Developer, in cooperation with the County, has undertaken to provide for take out financing of the acquisition of the Land and construction of the Improvements by the issuance of certificates of participation (the "Certificates") in the Lease Payments (as such term is defined in the Lease) pursuant to the Trust Agreement; and

WHEREAS, pursuant to that certain Assignment Agreement dated as of February 15, 1998, between the Developer and the Trustee, the Developer has heretofore assigned all of its right, title and interest in the Lease Payments to the Trustee for the benefit of the owners of the Certificates in exchange for the right to receive the Lease Transfer Amount (as such term is defined in the Trust Agreement) upon substantial completion of the Improvements in accordance with the Lease ("Substantial Completion"); and

WHEREAS, Substantial Completion has now occurred, and

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Developer hereby assigns and by this statutory warranty deed transfers, conveys and warrants to Trustee under that certain Trust Agreement dated February 15, 1998 between the Trustee and the Developer (the "Trust Agreement"):

- A. All of Developer's right, title and interest in the Property;
- B. All of Developer's remaining right, title and interest in, under and to the Lease by and between County and Developer dated February __, 1998, which was recorded on February __, 1998, in the official records of King County, Washington, under King County Auditor's Reference Number _____, subject to the County's rights therein; and
- C. In the event the Lease is ever deemed by a court of competent jurisdiction or otherwise to evidence a sale of the Property and the retention by Developer of a security interest in said Property, all of Developer's right, title and interest in said security interest.

The Property and Lease, as assigned, shall be held under the Trust Agreement for the benefit of the Owners from time to time of the Certificates. Trustee hereby agrees to and accepts such Assignment and Deed and, in addition, expressly assumes and agrees to keep, perform and fulfill all of the terms, covenants, obligations and conditions required to be kept, performed and fulfilled by Developer under or with respect to the Lease from and after the date hereof. The

assignment hereunder to Trustee is solely in its capacity as Trustee under the Trust Agreement, and the duties, powers and liabilities of the Trustee in acting hereunder shall be subject to the provisions of the Trust Agreement and the Environmental Indemnity Agreement. This Assignment and Deed is made without recourse against the Developer for any sum due or to become due under the Lease.

Developer acknowledges and agrees that from and after the date of this Assignment and Deed, it shall have no right, title or interest in, to or under the Lease or the Property.

DATED this ____ day of _____, 19__.

ISSAQUAH COURTHOUSE, LLC, a
Washington limited liability company, as
Developer

By _____
Its _____

**APPROVED AND ORIGINAL
ASSIGNMENT AND DEED RECEIVED:**

FIRST TRUST NATIONAL
ASSOCIATION, as Trustee

By _____
Title _____

County consents to the foregoing assignment by Developer, discharges Developer from any and all duties, obligations or liabilities as Lessor under the Lease (other than any remaining construction completion, correction, and warranty obligations as Lessor under the Lease and any obligation to pay Holdover Costs, as defined in the Lease) and except for the foregoing agrees to look solely to the Trustee for the performance of all obligations under the Lease which arise on or after the date hereof. County hereby represents and warrants (i) that the Lease is in full force and effect and has not been altered, modified, amended, terminated, cancelled, renewed, or surrendered nor have any of the material terms or conditions thereof been waived in any manner whatsoever and (ii) there is no default by Developer under the terms and provisions of the Lease, nor is there now any fact or circumstance that, with notice or lapse of time or both, would constitute such a default.

APPROVED:

King County, Washington

By: _____
Finance Director

Attest:

Clerk of the Council

13003

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of ISSAQUAH COURTHOUSE, LLC that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute this document.

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

NOTARY PUBLIC in and for the State of
Washington residing at _____
Print Name: _____
Commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of FIRST TRUST NATIONAL ASSOCIATION that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned and on oath stated that he/she is authorized to execute this document.

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

NOTARY PUBLIC in and for the State of
Washington residing at _____
Print Name: _____
Commission expires _____

ANNEX A

Legal Description of the Property

13023

EXHIBIT B

LEASE TRANSFER AMOUNT

The Lease Transfer Amount shall be an amount equal to \$5,895,700 [See Exhibit F - Project Budget, of Lease Agreement], adjusted as follows:

less 75% of the amount that the estimated guaranteed maximum price (paid to the General Contractor) exceeds the actual guaranteed maximum price (bid by the General Contractor) [the guaranteed maximum price will cover the items labeled "Building Cost" and "Sales Tax/Construction," lines 3 and 4 in the Project Budget];

less 75% of the savings, if any, accruing to Developer from General Contractor's building the Improvements for less than the guaranteed maximum price (the General Contract will specify that the Developer gets 75% of such savings, the General Contractor 25%);

less 75% of any savings in each of the following project cost categories: "Stated Contingency," "Bonds, Misc. Fees," "Permit Delay-Weather Site Contingency," "Building Permit," "Utility Fees," "Traffic Mitigation," and "R/E Taxes - Construction Periods," lines 5-11 in the Project Budget;

less 100% of any savings in each of the following project cost categories: "Construction Loan Fee," "Negative Arbitrage Coverage," "Costs of Issuance," "County's Design Contingency," lines 20-23 in the Project Budget;

less 75% of any savings in the cost of interest during the construction period resulting from an interest rate lower than 8%;

less 75% of any savings in the cost of interest during the construction period resulting from shortening of the permitting process, delaying draws on the construction loan or any other activity of the Developer that lowers the cost of interest during the construction period;

less 100% of any savings in the amount of excise taxes paid, line 25 in the Project Budget.

Savings are determined within each budget line. For any budget line where the County receives any savings as described above, the amount of such savings is deemed to be transferred first to the County Contingency Allowance, allocated as provided for such County Contingency Allowance, then subtracted from the Lease Transfer Amount.

13023

EXHIBIT C

[Attach here copy of the Environmental Indemnity Agreement]