

1 May 24, 1996
2 TMC

Introduced By: RON SIMS
Proposed No: 96-485

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4
5 ORDINANCE NO. **12319**

6
7 AN ORDINANCE authorizing the Executive to enter into a lease
8 for office space for both three years and four years five months and
9 with an option to renew for an additional term for various King
10 County departments, located in Council District No. 5.

11
12 **PREAMBLE:**

13 In accordance with provisions of K.C.C. 4.04.040, the King County council may adopt
14 an ordinance permitting the county to enter into contracts requiring the payment of
15 funds from the appropriations of subsequent fiscal years.

16
17 **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

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19 **SECTION 1.** The County executive is hereby authorized to execute a lease (in
20 substantially the form with terms and conditions , attached) for three years for the departments
21 of human services, parks and cultural resources and natural resources in the Key Bank
22 Building, Council District No. 5 for 67,000 square feet of rentable office space. Floor
23 seventeen, with 9,360 square feet, will have a term of four years and five months. For the
24 remainder of the space, King County shall have option to extend the lease for an additional six
25 months. Under the terms of the agreement, tenant improvements will be provided which are
26 to the satisfaction of the departments up to a cost of \$10 per square foot. Furthermore, the
27 County will receive a rent credit of \$46,350 per month to compensate for the rent paid under
28 the remaining term of the existing leases at the Smith Tower and Columbia Center. The
29 average rent for the space is based on a rate of \$16.25 per square foot per year, subject to
30 credits and off-sets.

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The lease will begin upon occupancy or approximately November 1, 1996. The rent includes all utilities and services and may only be adjusted based on proportional increases in building operating costs.

INTRODUCED AND READ for the first time this 3rd day of June, 1996

PASSED by a vote of 12 to 0 this 10th day of June, 1996.

KING COUNTY, COUNCIL
KING COUNTY, WASHINGTON

Jane Hague
Chair

ATTEST:

Gerald A. Peterson
Clerk of the Council

APPROVED this 20th day of June, 1996

Ray Locke
King County Executive

Attachments:
A. Lease Agreement

SECOND AMENDMENT TO LEASE

12319

THIS SECOND AMENDMENT is entered into as of this ____ day of _____, 1996 between THE CITY OF SEATTLE, a city of the first class of the State of Washington ("Landlord") and KING COUNTY, a political subdivision of the State of Washington ("Tenant").

RECITALS

A. Pursuant to a Lease dated November 16, 1993 (the "Lease"), Gateway Associates, a Washington general partnership ("Predecessor Landlord") leased to Tenant, and Tenant leased from Predecessor Landlord, certain premises commonly known as Floors 23 and 24 (the "Initial Premises") in the Building (the "Building") located at 700 Fifth Avenue, Seattle, King County, Washington. The Initial Premises are more particularly described in the Lease and consist of thirty four thousand eight hundred two (34,802) Rentable Square Feet of space.

B. Landlord is the successor in interest to Predecessor Landlord with regard to the Lease.

C. By First Amendment to Lease dated _____, 1996 (the "First Amendment"), Landlord leased to Tenant, and Tenant leased from Landlord, certain additional premises consisting of twenty one thousand seventy two (21,072) Rentable Square Feet of space on the 18th Floor of the Building (the "Expansion Space"), as more particularly described in the First Amendment.

D. Tenant now desires to further expand the Initial Premises leased from Landlord to include the approximately sixty two thousand six hundred thirty eight (62,638) additional Rentable Square Feet of space on Floors 17, 37, 38 and 39 of the Building, as described and depicted on Exhibit A hereto (the "Further Expansion Space").

E. Landlord is willing to further expand the Initial Premises to include the Further Expansion Space under certain terms and conditions.

AGREEMENT

In consideration of the mutual covenants contained in this Second Amendment, and the mutual covenants contained in the Lease and First Amendment, Landlord and Tenant covenant and agree as follows:

1. Defined Terms. All defined terms used in the Lease and First Amendment not otherwise defined in this Second Amendment shall have the same meaning given to them in those documents.

2. Expansion of Premises. Effective as of November 1, 1996 (the "Further Expansion Date"), the term "Premises" as used in the Lease and First Amendment shall mean the existing Premises, the Expansion Space and the Further Expansion Space.
3. Term. The term of the Lease for the Further Expansion Space, other than that portion thereof located on Building Floor 17, shall be three (3) years (the "Further Expansion Term") commencing on the Further Expansion Date and expiring on October 31, 1999. As to the portion of Floor 17, the Further Expansion Term shall expire on March 31, 2001. However, Tenant shall have the right to expand the Floor 37, 38 and 39 Further Expansion Term in accordance with the terms of paragraph 4 hereof.
4. Extension Right. Provided that it is not in default hereunder, or under the Lease or First Amendment, Tenant shall have the right to extend the Further Expansion Term as to the Floor 37, 38 and 39 Further Expansion Space for a period of up to six (6) months under the same terms and conditions as are set forth in the Second Amendment; subject to its compliance with the following schedule: (a) Tenant must notify Landlord in writing by no later than October 31, 1998 whether Tenant wishes to extend the Further Expansion Term for up to six (6) months, setting forth in such notice its proposed vacation dates for the Floor 37, 38 and 39 Further Expansion Space; and (b) by no later than January 31, 1998, Tenant shall give Landlord written notice of the vacation dates for the Floor 37, 38 and 39 Further Expansion Area, which dates shall be no earlier than October 31, 1999 and no later than April 30, 2000.
5. Base Rent. Effective as of the Further Expansion Date, the Base Rent payable by Tenant for the Further Expansion Space shall be Eighty Six Thousand One Hundred Twenty and 25/100 Dollars (\$86,127.25) per month; provided, however, that during the period from November 1, 1996 through March 31, 1996 Tenant shall receive a credit against Base Rent equal to Forty Six Thousand Three Hundred Fifty Dollars (\$46,350) per month, provided that Tenant is not then in default under the Lease, First Amendment or Second Amendment. If Tenant defaults under the Lease, the First Amendment or this Second Amendment, and fails to cure such default within the applicable cure period, then such rent credit shall immediately terminate, and Tenant shall immediately reimburse Landlord for prior credits received by Tenant under this paragraph 5. .
6. Additional Rent. Effective as of the Further Expansion Date, Tenant's share, as defined in Section 5 of the Lease, shall include the Rentable Area of the Further Expansion Space; provided, however, the base year for the Further Expansion Space shall be 1997.
7. Parking. Effective as of the Further Expansion Date, Tenant shall have the license to use, at the prevailing monthly rate established for the Building garage, one additional parking stall for each one thousand eight hundred (1,800) Rentable Square Feet in the Further Expansion Area during the Further Expansion Term and any extension

thereof under terms of paragraph 4 above, subject to the terms of Section 38 of the Lease.

8. Improvements to the Further Expansion Space. The Further Expansion Space will be improved by Landlord with improvements in accordance with the terms of Exhibit B attached hereto. This Second Amendment, and Tenant's obligations to pay Rent on the Further Expansion Space, shall commence on the Further Expansion Date, regardless whether the tenant improvements are completed by the Further Expansion Date.
9. Use. Tenant may use the Further Expansion Premises for, and only for, administrative office purposes and other office uses similar to the non-governmental office uses in the Building, provided that: (a) no portion of the Further Expansion Space may be used for customer service or any other function which involves significant public traffic in the Building (e.g., licensing, permit application, social service delivery, physical or mental examinations), (b) no portion of the Further Expansion Area may be used for any law enforcement activity involving the presence of accused persons or for the delivery of health services, (c) no portion of the Further Expansion Space shall be used for any purpose inconsistent with the Building's status as a Class A Office Building and (d) no portion of the Further Expansion Area may be used for any purpose in violation of the terms of any other lease in the Building. Tenant shall comply with, and cause its employees, consultants, agents, contractors, guests and invitees to comply with, all Building rules and regulations, including, by way of emphasis but not by way of limitation, those related to smoking.
10. Potential Further Expansion Area. If Tenant notifies Landlord in writing of its interest in leasing the approximately two thousand eight hundred ninety two (2,892) rentable square feet of space presently occupied by Ragen Cromwell on Floor 39 of the Building, Landlord will discuss with Tenant the possibility of adding such space to the Further Expansion Space and the terms and conditions, including delivery date for such space. If the parties reach agreement thereon, then the Lease shall be further amended to address the inclusion thereof.
11. Consultation Regarding Additional Space. If Tenant leases the space under terms of the preceding paragraph, and is not in default hereunder or under the Lease or First Amendment, Landlord will discuss with Tenant the possibility of leasing additional space in the Building to Tenant when it becomes available and the terms and conditions, including Rent, for such space. Nothing contained herein shall obligate Landlord to lease any further space to Tenant beyond the Further Expansion Space.
12. Miscellaneous. Except as specifically amended by this Second Amendment, all of the terms and conditions of the Lease and First Amendment shall continue in full force and effect as written. If any of the terms or conditions of this Second Amendment conflict with any of the terms or conditions of the Lease or the First Amendment, the terms of this Amendment shall control. Each party represents and warrants to the

other, as of the date of this Second Amendment, that, to the best of its knowledge and belief, the other party is not in default under the Lease or First Amendment, and the other party has fully complied with its obligations under the Lease and First Amendment.

13. Brokers. Tenant represents and warrants to Landlord that it has dealt with no real estate brokers or sales persons in connection with this Agreement, other than Cushman & Wakefield of Washington, Inc. ("Broker"). Landlord shall pay Broker such real estate fees or commissions as are due and payable to Broker in connection with this Agreement, if any, as set forth in a separate agreement between Landlord and Broker. If any person or entity, other than Broker or Gateway Management, L.L.C., claims or demands a real estate fee or commission or other such fee in connection with this Second Amendment, and such claim or demand is based on actual or alleged oral or written agreements or understandings with Tenant, Tenant shall indemnify, defend and hold Landlord harmless from all claims, causes of action, demands, losses, suits, liabilities and expenses (including reasonable attorneys' fees) incurred by Landlord as a result thereof.

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

LANDLORD

THE CITY OF SEATTLE

By _____
Kenneth J. Nakatsu, Director of
Administrative Services

TENANT

KING COUNTY, a political
subdivision of the State of Washington

By _____
Its _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 1996, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of KING COUNTY, a political subdivision of the State of Washington, the _____ that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said _____, for the purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

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

Signature

Print Name

NOTARY PUBLIC in and for the State of

Washington, residing at _____.

My commission expires _____.

PREMISES IMPROVEMENTS
(Turnkey, Landlord's Contractor)

This Exhibit B is attached to and forms a part of a Second Amendment to Lease dated ____, 1996 (the "Lease Amendment") between the City of Seattle, as landlord ("Landlord") and King County, as tenant ("Tenant").

A. Turnkey Premises Improvements.

1. Landlord shall finish the Further Expansion Space and pay for such improvements (the "Premises Improvements") according to the procedures set forth in this Exhibit B. All plans and specifications, and all Premises Improvements, shall be in conformity with and governed by the Tenant Improvement Manual dated April 1, 1989, the Mechanical Systems Tenant Improvement Manual dated March 1, 1990, and the Electrical Systems Tenant Improvement Manual dated June 29, 1990 (collectively the "TI Manual"), copies of which have been furnished to Tenant or the Architect prior to full execution of the Lease Amendment.

2. If Tenant elects to upgrade surface finishes from those set forth in the TI Manual, or make any other departure from the TI Manual with respect to any items, such upgrade or other departure shall be subject to Landlord's approval and Tenant shall pay the cost thereof pursuant to the terms of Section B.4 of this Exhibit. Non-Building Standard items are sometimes referred to herein as "special" items.

Tenant shall be responsible for all items not specifically set forth in the TI Manual, including but not limited to Tenant's telephone and computer equipment, service and cabling.

3. Tenant shall appoint a single Design/Construction Representative, who shall communicate all decisions of Tenant relating to matters set forth in this Exhibit B. Landlord shall be entitled to rely on the communications of the Design/Construction Representative, and shall be entitled to refuse to take direction from persons not so designated by Tenant.

B. Design of Premises Improvements.

1. Architect. Landlord shall engage the services of an architect, space planner and structural, mechanical and electrical engineers (collectively the "Architect") selected by Tenant, but approved by Landlord, to provide the professional services required for the improvement of the Expansion Space and other portions of the Building. The Architect shall provide all architectural and engineering services required by Tenant and Landlord for all improvements to the Expansion Space. Landlord shall pay for the cost of such architectural and engineering services as part of the Section C.5 Tenant cost reimbursement. The Architect shall work with Tenant with respect to Premises Improvements subject to Landlord's approval rights and authority as provided for herein. The Architect shall be responsible for ensuring that the work shown on Tenant's plans is compatible with the basic Building plans, including any Building modifications approved in writing by Landlord to meet Tenant's requirements.

2. Plans for Premises Improvements.

a. Preliminary Plans. Based on the TI Manual and other information provided by Tenant and approved by Landlord, the Architect shall prepare the working drawings, specifications and engineering drawings representing the Final Contract Documents for Premises

Improvements. Tenant shall provide timely and adequate information, direction and approval of plans and specifications to the Architect and shall otherwise use its best efforts to work with the Architect to meet the indicated deadlines.

b. Final Contract Documents: Tenant shall cause the Architect to submit two (2) blue-line sets of Contract Documents to Landlord. Landlord shall have five (5) business days to review and return one (1) reviewed set of contract Documents to the Architect. The Architect shall promptly incorporate Landlord's comments and submit two (2) blue-line sets of Final Contract Documents to Tenant. Tenant shall have five (5) business days to review Final Contract Documents. Tenant shall indicate its approval by signing the cover sheet of the Final Contract Documents and returning one (1) complete set to Landlord.

3. Contract Administration. Landlord will provide construction administration during the execution of Premises Improvements on the Expansion Space and will observe progress of that work, attend necessary contractor coordination meetings, advise Tenant on status. Architect shall prepare a punchlist for any construction deficiencies at completion. Landlord shall certify the Expansion Space ready for occupancy prior to move-in.

4. Delays and Costs. Tenant shall be responsible for delays and additional costs in completion of the Premises Improvements and any tenant work and any damages or other costs, including additional fees of the Architect, incurred by Landlord which are caused by (a) Tenant's failure to provide adequate information and direction to the Architect or other failure to use best efforts to meet the Final Contract Documents delivery date set forth in Section B.2 of this Exhibit, except that Tenant shall not be responsible for delays resulting from Landlord's failure to review and to approve or comment upon the Final Contract Documents within a commercially reasonable time after their respective deliveries by Tenant to Landlord, unless the delay is requested by or the fault of Tenant; (b) Tenant's failure to timely authorize Landlord to Proceed with construction of the Premises Improvements; (c) Tenant's changes made to any Final Contract Documents after the specified Delivery Date thereof, (d) Tenant-requested changes from the specifications of the TI Manual and/or the Special Requirements; (e) Tenant's requested improvements to the Expansion Space beyond those provided for in this Exhibit; (f) delays in delivery of special materials if Landlord has made reasonable efforts to secure said materials in a timely manner; or (g) delays requested by Tenant. Tenant shall reimburse Landlord for such costs upon the Further Expansion Date unless an earlier date is noted in this Exhibit. If Tenant wishes to improve the Further Expansion Space beyond that provided for in this Exhibit, it shall request such changes in writing, and the parties shall follow the same procedures and be subject to the same requirements as are specified in Section C.2 of this Exhibit for changes which are made after Final Contract Documents have been approved.

C. Construction of Premises Improvements.

1. Authorization to Proceed. Upon delivery by Tenant of Final Contract Documents pursuant to Section B.2 of this Exhibit, Landlord shall be deemed authorized to proceed with construction and Landlord shall complete the Premises Improvements and deliver the Expansion Space to Tenant on or before that date which is one hundred and twenty (120) days thereafter.

2. Final Contract Documents and Modifications. Tenant may request changes in the approved Final Contract Documents, by written notice to Landlord accompanied by such plans and specifications as may be necessary to show and explain changes from the approved Final Contract Documents. After receiving such request, Landlord shall use reasonable efforts to provide Tenant a price for the estimated cost (including engineering and design services) to carry out the

changes. Tenant specifically acknowledges, however, that the time requirements of construction will often require Landlord to go forward with a requested change before Landlord is able to calculate the cost of such a change. Tenant further specifically acknowledges that Tenant shall be liable for the cost of such change even if Landlord has proceeded before the cost was determined. Accordingly, Tenant agrees that, if Tenant wishes to have implementation of a requested change contingent on Tenant's approval of the cost thereof, Tenant must so state in writing to Landlord at the time of requesting the change. Tenant further acknowledges that such a request may cause delays that will either prevent or make more costly implementation of the change request. If Tenant does not specifically request in writing that implementation of a change be contingent on Tenant's approval of the cost thereof, Landlord may proceed with such change without Tenant's approval of the cost thereof. In implementing a change request, Landlord shall be entitled to charge design and engineering costs, any increased construction cost, plus a fee equal to fifteen percent (15%) of the design and construction costs. Tenant shall reimburse Landlord for the actual cost of such changes and for its fee within ten (10) days after invoice. Tenant shall be responsible for any resulting delay in completion of the Premises due to a modification of Final Contract Documents.

3. Commencement of Lease Term. The Lease Term shall commence on the date stated in the Second Amendment. Delays for which Tenant shall be responsible (i.e. that shall not result in a delay in the Commencement Date) include but are not limited to:

a. Tenant's failure to provide sufficient information to the Architect to allow timely submission and completion of the Final Contract Documents identified in Section B.2 of this Exhibit;

b. Tenant's failure to approve plans and specifications and price by the dates or within the time periods required by the Second Amendment (including this Exhibit);

c. Tenant's increase in the scope of the improvements beyond that provided for in this Exhibit or changes in the Final Contract Documents after they have been approved by Tenant for construction;

d. Tenant's requests for materials other than items specified in the TI Manual; or

e. Tenant's failure to timely perform any of its other obligations under the Second Amendment or this Exhibit; or

f. Tenant's delays otherwise addressed in Section B.4 of this Exhibit.

4. Cooperation; Responsibility. Tenant shall cooperate fully with Landlord as necessary and appropriate with respect to construction of Premises Improvements. However, Landlord shall be fully responsible for such construction work, shall contract with and otherwise deal with any and all contractors and subcontractors in its own name as principal and not as Tenant's agent.

5. Landlord shall pay up to Ten Dollars (\$10.00) per Rentable Square Feet of space in the Future Expansion Space (the "Maximum") of costs attributable to constructing and designing the Premises Improvements (including costs paid by Landlord under terms of Section B.1 hereof) and relocating Tenant into the Further Expansion Space, including telephone and cabling costs (collectively the "Reimbursable Items") but not for any of Tenant's personal property. If the cost of completing the Premises Improvements, less any amounts which Landlord reimburses Tenant directly for the cost of designing the Premises Improvements and for the other

Reimbursable Items, exceeds the Maximum. Tenant shall reimburse Landlord for the amount of the excess within twenty (20) days after receiving written notice thereof from Landlord.

D. General Provisions.

The following provisions shall be applicable to all Premises Improvements and to use of the Further Expansion Space.

1. Tenant shall have the right to control design of special improvements to the Further Expansion Space, subject to Landlord's approval, which shall not be unreasonably withheld;

2. The electrical service for the Further Expansion Space is designed for systems not to exceed 4.2 watts per usable square foot (including lighting) and shall be subject to any limits imposed by applicable Seattle codes and the Energy Edge Program. Tenant shall be responsible, as additional rent, for any increase in energy cost attributable to any special electrical usage. Lighting not consistent with Seattle's Energy Code or the Energy Edge Program shall not be installed without the prior approval of Landlord and the Architect, which may be withheld in the sole discretion of Landlord.

3. Tenant acknowledges that portions of the Building and Common Areas may not be completed on or prior to the Commencement Date of the Lease Term and agrees that such will not render Landlord liable to Tenant or result in any abatement or reduction in rent.

4. If Tenant requests that Landlord install any fixtures in the Further Expansion Space or perform any alterations, additions or improvements to the Further Expansion Space which are in addition to or subsequent to the Premises Improvements, and if Landlord consents to such request, such additional work shall be installed at Tenant's sole cost and expense and the terms and conditions of Section E of this Exhibit shall govern all such work.

5. Tenant's Telephone. Tenant shall be solely responsible for its telephone system, including selection and, except as noted in Section C.5, installation and cost and for Tenant's telephone service. Information concerning telephone equipment size and any special requirements must be given to Architect during the planning phase, and Tenant shall coordinate installation of the telephone system with Landlord during the construction phase.

6. Tenant's Entry into Expansion Space. Tenant's entry to the Expansion Space for any purpose, including without limitation, inspection of the performance by Landlord's contractor, prior to commencement of the Further Expansion Term, shall be scheduled in advance with Landlord. Tenant's entry shall mean entry by Tenant, its officers, contractors, office planner, licensees, agents, servants, employees, guests, invitees or visitors.

E. Special Provisions.

If a portion of the Premises Improvements or any other work within the Further Expansion Space is to be performed by someone other than the Landlord's contractor or subcontractor, then the following terms and conditions shall apply:

1. Such work shall proceed upon Landlord's written approval of (i) Tenant's contractor; (ii) public liability and property damage insurance satisfactory to Landlord carried by Tenant's contractor; (iii) detailed plans and specifications for such work (except work exempt under

the Lease form Landlord's written consent); and (iv) amount of general conditions to be paid by Tenant to Landlord for the service still provided by Landlord's contractor.

2. Tenant shall ensure that such work shall: (a) be in conformity with first class commercial standards; (b) not affect the structural integrity of the Building or the Building's systems; (c) not disrupt the business or operations of adjoining tenants; and (d) not invalidate or otherwise affect the construction and systems warranties then in effect with respect to the Building.

3. All work shall be done in conformity with a valid building permit, when required, a copy of which shall be furnished for Landlord before such work is commenced, and in any case, all such work shall be performed in accordance with all applicable governmental regulations. Notwithstanding any failure by Landlord to object to any such work, Landlord shall have no responsibility for Tenant's failure to meet all applicable regulations.

4. All work by Tenant or Tenant's contractor shall be done with union labor in accordance with all union labor agreements applicable to the trades being employed.

5. All work by Tenant or tenant's contractor shall be scheduled through Landlord.

6. Tenant or Tenant's contractor shall arrange for necessary utility, hoisting and elevator services with Landlord's contractor and shall pay within ten (10) days of invoice such reasonable charges for such services as may be charged by Landlord's contractor.

7. Tenant shall promptly reimburse Landlord for costs incurred by Landlord due to faulty work done by Tenant or its contractors, or by reason of any delays caused by such work, or by reason of inadequate clean-up.

8. Prior to commencement of any work on the Further Expansion Space by tenant or Tenant's contractor, Tenant and Tenant's contractor shall enter into an indemnity agreement and a lien priority agreement satisfactory to Landlord indemnifying and holding harmless Landlord and Landlord's contractor for any liability, losses or damages directly or indirectly from lien claims affecting the land, the Building or the Further Expansion Space arising out of Tenant's or Tenant's contractor's work or that of subcontractors or suppliers, and subordinating any such liens to the liens of construction and permanent financing for the Building.

9. Landlord shall have the right to post a notice or notices in conspicuous places in or about the Further Expansion Space announcing its non-responsibility for the work being performed therein.