

Attachment A

15633

GROUND LEASE AGREEMENT

between

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

as Lessor

and

**NJB PROPERTIES,
a Washington nonprofit corporation**

as Lessee

November 1, 2006

**Ninth & Jefferson Building Project
Seattle, Washington**

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EXHIBIT A Legal Description

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT ("Ground Lease") is dated for reference purposes November 1, 2006, and is made by and between **KING COUNTY**, a political subdivision of the State of Washington ("Lessor"), and **NJB PROPERTIES**, a Washington nonprofit corporation ("Lessee").

RECITALS

A. Lessor is the owner of the real estate described on **EXHIBIT A** attached hereto ("Land") located in the City of Seattle, King County, Washington.

B. Lessor intends to lease the Land to Lessee pursuant to this Ground Lease, and Lessee intends to construct and equip thereon a first-class office building to serve as medical offices containing approximately 440,000 square feet of rentable area as more fully described in the Preliminary Plans and Outline Specifications, including all HVAC, electrical and other building systems, Tenant Improvements and parking for approximately 600 vehicles, all pursuant to the Preliminary Plans and Outline Specifications ("Building"). The design and construction of the Building shall be as more particularly described in that certain Project Lease Agreement between the parties ("Project Lease").

C. Lessee intends to lease the Premises, including the Building, back to Lessor in accordance with the Municipal Leasing Act, RCW ch. 35.42 and King County Code 4.56.160 E, and pursuant to the Project Lease.

D. Lessee intends to pay the costs of the Project with the proceeds of tax-exempt obligations which satisfy the requirements of the Revenue Ruling 63-20 and Revenue Procedure 82-26 issued by the U.S. Treasury.

E. All capitalized terms used in this Ground Lease but not otherwise defined herein (including these Recitals hereto) shall have the meanings given to such terms in the Project Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the parties hereto agree as follows:

1. **The Demise.**

1.1 Demise. In consideration of the rents, covenants and agreements contained in this Ground Lease, Lessor hereby leases the Land to Lessee, and Lessee hereby leases the Land from Lessor upon and subject to the conditions set forth in this Ground Lease, and subject to all encumbrances and matters of record as of the date of this Ground Lease.

1.2 Use of the Land. The Land shall be used and occupied only for the purpose of the development, operation, use, repair and maintenance of the Project but, until Lessee commences such use and occupancy, Lessor reserves the right to continue to use and

occupy the Land for its purposes at no cost. Lessee shall not use or permit the Land to be used for any other purpose without the prior written approval of Lessor. Lessee is hereby authorized to lease back to Lessor the Land as improved by the Project pursuant to the Project Lease.

1.3 Access and Utilities. Lessor and Lessee agree to mutually cooperate regarding the provision of reciprocal temporary and permanent pedestrian and vehicular access and utilities to, from, and over the Land and the Project to, from, and over adjacent lands of Lessor. Lessor and Lessee further agree to mutually cooperate regarding the use of parking on the Land and the adjacent lands of Lessor during construction of the Project. Lessor and Lessee agree to execute such instruments as may be necessary to provide for such pedestrian and vehicular access, parking and utilities and agree to cooperate in the location thereof.

1.4 Construction Activity. Lessor hereby grants permission to Lessee to perform construction activity related to the Project on adjacent lands of Lessor. Lessee and Lessor agree to mutually cooperate as to the timing, use, and location of such construction activity in order to ensure completion of the Project in a timely manner while maintaining Lessor's ability to utilize the adjacent lands for Lessor's ongoing operations.

2. Term.

2.1 Commencement. Subject to the terms and conditions of this Ground Lease, the term of this Ground Lease shall commence on the date that this Ground Lease is fully executed, acknowledged and delivered by Lessor and Lessee.

2.2 Duration. The term of this Ground Lease shall commence on the Effective Date and shall expire on the earlier of (i) December 31, 2041 or (ii) the date that the Bonds have been paid and retired, unless sooner terminated hereunder ("Term").

3. Rent. Lessee shall pay to Lessor as rent for the Term the sum of \$100.00 payable in whole in advance on or before the first day of the Term.

4. Development of Project.

4.1 Construction. Lessor agrees that Lessee shall cause the Project to be constructed and developed pursuant to the Project Lease. Lessee shall not permit any development or construction on the Land except as contemplated by the Project Lease or as otherwise specifically approved in writing by Lessor.

4.2 Ownership of Improvements. During the Term, the Project and all other improvements on the Land paid for by Lessee shall be owned by Lessee. Upon the expiration or earlier termination of this Ground Lease, the Project and all other improvements on the Land shall become the property of Lessor.

5. Taxes and Utilities.

5.1 Lessee's Responsibility. Lessee shall be solely responsible for the payment of and shall pay and discharge all utility charges which are incurred as part of Project Costs as defined in the Project Lease.

5.2 Lessor's Responsibility. Lessor shall pay all utility charges that are not part of Project Costs and all real estate taxes and assessments, if any, that are imposed upon the Land. In accordance with RCW 35.42.090, this Ground Lease shall be exempt from any taxes imposed under the authority of RCW ch. 82.45, RCW 82.04.040, and RCW 82.08.090, and by rules and regulations of the department of revenue issued pursuant thereto. .

5.3 Lessor's Taxes. Nothing in this Ground Lease shall require Lessee to pay any franchise, estate, inheritance, succession, capital levy (measured on the capital stock of Lessor), income, or transfer tax of Lessor.

6. Condition of the Land.

6.1 "As Is" . Lessee hereby accepts the Land "as is" in its existing condition including, without limitation, the obligation to perform or to cause to be performed all Environmental Remediation to the extent covered by the approved Project Budget. Notwithstanding the foregoing, and except for Environmental Remediation covered by the approved Project Budget, Lessor shall be solely responsible for all claims, judgments, damages, penalties, fines, expenses, liabilities or losses relating to the presence, release or disposal of hazardous substances that were present in the soil, groundwater or soil vapor on or under the Land or any adjacent or nearby property as of the Effective Date of this Ground Lease, including any costs of investigation or remediation of such toxic or hazard substances that may be required by any federal, state or local government agency. Lessor shall not be responsible for any claims, judgments, damages, penalties, fines, expenses, liabilities or losses relating to the release or disposal of hazardous substances on the Land during construction of the Project and the responsibility for the same shall remain with Lessee and Developer.

6.2 Lessor's Right to Inspect. Lessor shall have the right to inspect the Land at any time.

7. Liens; Security Interest. Except for the use of this Ground Lease as security for the Bonds to be issued to finance or refinance the Project or as specifically approved in writing by Lessor, Lessee will not directly or indirectly create or permit to be created or to remain, and will discharge any mortgage, lien, security interest, encumbrance or charge on, pledge of or conditional sale or other title retention agreement with respect to the Land, any part thereof, the Project, Lessee's interest therein, or any equipment, fixtures or personalty on the Land that is imposed by or as a result of the actions of Lessee.

8. Indemnity. Lessor and Lessee mutually agree that in any and all causes of action and/or claims or third-party claims arising out of or in connection with the terms, activities, use and/or operations of this Ground Lease, including the Land and the Project, each party shall be responsible to the other only to the extent of each other's comparative fault in causing the alleged damage or injuries. As to any and all causes of action and/or claims or third-party claims arising from the sole fault of a party to this Ground Lease ("Indemnifying Party"), the Indemnifying Party shall have the duty to defend, save and hold the other party harmless and upon failure to do so, the Indemnifying Party shall pay the reasonable attorneys' fees, costs and expenses incurred by the other party to this Ground Lease in defense of such claims and/or actions. Nothing

contained within this Section 8 shall affect and/or alter the application of any other provision contained within this Ground Lease.

9. Minimum Scope of Insurance Coverage for Lessee.

9.1 Property Insurance. At all times during the Term of this Ground Lease, in the event that Lessor is not maintaining property insurance with respect to all improvements constructed on the Land, Lessee shall maintain property insurance fully insuring, at 100% of replacement cost, all improvements constructed on the Land, as well as all of Lessor's personal property and trade fixtures located on the Land, against loss or damage by fire and other perils currently covered by a special causes of loss commercial property insurance form. Lessee shall also cause the improvements to be insured against the perils of earthquake and flood, either as part of the aforementioned property insurance, or under a separate policy or policies; provided, however, that such coverage shall be maintained only so long as it is available at a commercially reasonable cost and in coverage amounts which are commercially available, but Lessee shall not be in default under this Ground Lease if coverage is no longer written, is unavailable for comparable properties or is not available at commercially reasonable premium amounts. The property insurance policy shall meet the requirements set forth in this Section and in the Project Lease.

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

9.3 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in insurance coverage maintained by Lessee must be declared to and approved by Lessor. The deductible and/or self-insured retention of the policies shall not limit or apply to Lessor and shall be the sole responsibility of Lessee.

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

(a) Liability Policies:

(1) Lessor, its officers, officials, employees and agents are to be covered as an additional insured as respects liability arising out of activities performed by or on behalf of Lessee in connection with this Lease.

(2) Lessee's insurance coverage shall be primary insurance as respects Lessor, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by Lessor, its officers, officials, employees and agents shall not contribute with Lessee's insurance or benefit Lessee in any way.

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

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

(c) Acceptability of Insurers. Unless otherwise approved by Lessor:

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

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

9.5 Waiver of Subrogation. Lessee shall cause its property insurance carrier(s) to release and waive all rights of subrogation against Lessor to the extent a loss is covered by property insurance in force; provided, however, that this Section 9.5 shall be inapplicable if it would have the effect of invalidating any insurance coverage of Lessee.

10. Eminent Domain. In the event of any taking, partial or whole, Lessor shall be entitled to the entire award judgment or settlement from the condemning authority for the value of the Land taken by the condemning authority.

11. Events of Default by Lessee and Lessor's Remedies.

11.1 Events of Default. The following occurrences or acts shall constitute an event of default under this Ground Lease:

(a) Failure to Perform. If Lessee shall (i) default in making payment when due of any rent or any other amount payable by Lessee hereunder; or (ii) default in the observance or performance of any other substantial provision of this Ground Lease to be observed or performed by Lessee hereunder; and, in either case, if such default shall continue for thirty (30) days, in each case after Lessor shall have given to Lessee notice specifying such default and demanding that the same be cured, or, with respect to a default under subsection (ii), if by reason of the nature thereof such default cannot be cured by the payment of money and cannot with due diligence be wholly cured within such period of thirty (30) days, if Lessee shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default and with all due diligence, it being intended in connection with a default not susceptible of being wholly cured with due diligence within such period that the time within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence; or

(b) Lessee's Financial Condition. If Lessee shall make a general assignment for the benefit of creditors, or shall file a petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file an answer admitting or shall fail seasonably to contest the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Lessee or any material part of its properties.

11.2 Remedies Upon Lessee's Default. In the event of any default by Lessee as defined hereinabove which default remains uncured after the expiration of the respective period set forth above, Lessor may exercise any remedy which may be available to Lessor at law or equity, including but not limited to actions for damages, and/or injunctive relief; provided, that, unless the Bonds have been paid in full and the Bond Insurer, if any, has consented, Lessor may not terminate this Ground Lease prior to the end of the Term except for Lessee's failure to pay the rent when due.

11.3 Cumulative Rights and Remedies. The rights and remedies reserved to Lessor herein, including those not specifically described, shall be cumulative, and except as provided by Washington statutory law in effect at the time, Lessor may pursue any and all such rights and remedies at the same time or independently.

11.4 No Waiver. No delay or omission of Lessor to exercise any right or remedy shall, except as expressly provided herein, be construed as a waiver of any such right or remedy or of any default by Lessee hereunder. The acceptance by Lessor of rent or any additional rent hereunder shall not be a waiver of any preceding breach or default by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent accepted, regardless of Lessor's knowledge of such preceding breach or default at the time of acceptance of such rent, or, except as expressly set forth herein, a waiver of Lessor's right to exercise any remedy available to Lessor by virtue of such breach or default.

11.5 Attorneys' Fees. If either party incurs any expenses, including but not limited to reasonable attorneys' fees, consultant and expert witness fees, in connection with any action or proceeding instituted by any party by reason of any default or alleged default of a party hereunder, the party prevailing in such action or proceeding shall be entitled to recover its reasonable expenses from the other party hereof. For purposes of this provision, in any action or proceeding instituted pertaining to this Ground Lease, a party shall be deemed the prevailing party if (i) judgment is entered substantially in favor of said party or (ii) before trial or judgment the other party shall pay all or any portion of the charges claimed by said party, or the other party shall eliminate the condition(s), cease the act(s) or otherwise cure the omissions(s) claimed by said party to constitute a default by the other party hereunder.

12. Quiet Enjoyment. If and so long as Lessee shall pay all rent and all other amounts payable by Lessee hereunder whenever the same shall become due and shall keep all of the covenants and conditions required by it to be kept during this Ground Lease and shall perform all of its other obligations hereunder, Lessor covenants and agrees that, except as may otherwise be provided in the Project Lease, Lessor will not interfere with the peaceful and quiet

occupation and enjoyment of the Land by Lessee, which occupation and enjoyment shall be without hindrance, ejection or molestation by Lessor.

13. Lessee to Comply with Applicable Laws and Agreements.

13.1 Compliance with Laws. Lessee shall not use the Land or permit anything to be done in or about the Land which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Lessee shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, and obtain all permits, licenses or other approvals required by governmental agencies or bodies. Lessee shall further comply with the requirements of any board or fire insurance underwriters or other similar bodies now or hereafter constituted, relating to, or affecting the condition, use or occupancy of the Land.

13.2 Compliance with Agreements. Lessee shall comply with all insurance policies and applicable agreements to which Lessee is a party or by which it is bound, now or hereafter in effect, and all agreements of which Lessee has notice and which are now in effect and applicable to the Land.

14. Waiver Limitations. The waiver by either party of any term, covenant or condition herein contained on the part of the other party to be performed shall not be deemed a waiver of such term, covenant or condition for any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Ground Lease, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.

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

If to Lessor:	King County Facilities Management Division 800 King County Administration Building 500 Fourth Avenue Seattle, WA 98104 Facsimile: (206) 205-5070
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If to Lessee: NJB Properties
c/o National Development Council
1425 Fourth Avenue, Suite 608
Seattle, WA 98101
Facsimile: (206) 448-5246

Any party may change the address to which notices shall be sent by notice to the other party in the manner and with the effect set forth in this Section 15.

16. Assignment and Subleasing.

16.1 Subleasing. Lessor and Lessee intend that Lessee shall enter into the Project Lease with Lessor. Any other proposed subleases of the Land shall be subject to the review and written approval of Lessor.

16.2 Assignment. Except for the assignment to the Trustee to secure the Bonds for the Project, Lessee shall not assign, mortgage, or encumber this Ground Lease or delegate the duties of Lessee under this Ground Lease without the prior written consent of Lessor. A consent to one assignment shall not be deemed to be a consent by Lessor to any subsequent assignment by another person. This Ground Lease shall not, nor shall any interest of Lessee herein, be assignable by operation of law, without prior written consent of Lessor.

17. Miscellaneous.

17.1 Time of Essence. Time is of the essence in regard to performance of the covenants and agreements stated herein.

17.2 No Joint Venture or Agency. Nothing contained in this Ground Lease nor any of the acts of the parties hereto shall be construed nor is it the intent of the parties, to create a joint venture or partnership between Lessor and Lessee, nor is either party the agent or representative of the other, and nothing in this Ground Lease shall be construed to create any such agency relationship or to hold either party liable to anyone for goods delivered or services performed at the request of the other party.

17.3 Amendments. No change in or addition to or waiver or termination of this Ground Lease any part hereof, shall be valid unless made in writing and signed by or on behalf of the party charged therewith. Lessor and Lessee agree to negotiate in good faith any amendments to this Ground Lease that may be requested or required in connection with the issuance of the Bonds to finance the Project.

17.4 Governing Law. This Ground Lease shall be construed in accordance with and governed by the laws of the State of Washington.

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

17.6 Headings. The article, section and paragraph headings herein contained are for the purposes of identification and reference convenience only and shall not be considered in construing this Ground Lease.

17.7 Successors and Assigns. Subject to the provisions hereof restricting the sublease or assignment by Lessee, all the terms and provisions of this Lease shall be binding upon and to the benefit of and be enforceable by the parties and the successors and assigns of the parties.

17.8 No Merger. In no event shall the leasehold interest of Lessee hereunder merge with any estate of Lessor in or to the Land or the leasehold interest of Lessor under the Project Lease. In the event that Lessor acquires the leasehold interest of Lessee, such leasehold interest shall not merge with Lessor's fee interest in the Land or the leasehold interest of Lessor under the Project Lease, and this Ground Lease and the Project Lease shall remain in full force and effect.

17.9 Counterparts; Recording of Memorandum. This Ground Lease may be executed in several counterparts, each of which shall be deemed an original for all purposes. Either Lessor or Lessee shall have the right to record a memorandum of this Ground Lease in a form comparable to that provided in the Project Lease and the parties shall cooperate in execution of such memorandum.

17.10 Schedule of Exhibits. This Ground Lease includes the following exhibits attached hereto and incorporated herein by this reference.

EXHIBIT A Land Legal Description

18. Vacation of Alley. The Land described on the attached **EXHIBIT A** is bisected by an alley ("Alley") which is the subject of a petition for vacation ("Petition") approved by the Seattle City Council on March 31, 2003 and filed under Clerk's File No. 304408. Final vacation of the Alley is conditioned upon the satisfaction of certain conditions as set forth in the Petition. Lessor shall be primarily responsible for compliance with such conditions including, without limitation, obtaining an extension of the time period set forth in the Petition for completion of the Project and compliance with reporting requirements set forth in the Petition. Once Lessee has completed the Project to an extent sufficient to meet the requirements of the City and once all other conditions for completion of the vacation of the Alley have been met, Lessor shall take all actions, including the payment of all applicable costs and fees, to cause the City to enact the final street vacation ordinance with respect to the Alley and to convey ownership of the Alley to Lessor. At that time, Lessor and Lessee shall execute an amendment to this Ground Lease for the purpose of including the vacated Alley within the description of the Land leased hereunder.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Ground Lease as of the dates set forth below to evidence their agreement to the terms of this Ground Lease.

LESSOR:

KING COUNTY,
a political subdivision of the
State of Washington

APPROVED AS TO FORM:

By _____
Senior Deputy Prosecuting Attorney

By _____
Kathy Brown
Director, King County
Facilities Management Division

Date: _____, 2006

LESSEE:

NJB PROPERTIES,
a Washington nonprofit corporation

By _____
John Finke
Vice President

Date: _____, 2006

STATE OF WASHINGTON

}

ss.

COUNTY OF KING

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

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2006.

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

STATE OF WASHINGTON

}

ss.

COUNTY OF KING

I certify that I know or have satisfactory evidence that John Finke is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Vice President of **NJB PROPERTIES**, a Washington nonprofit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2006.

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

EXHIBIT A
LAND LEGAL DESCRIPTION

LOTS 1 THROUGH 8, BLOCK 81, TERRY'S SECOND ADDITION TO THE
TOWN OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED
IN VOLUME 1 OF PLATS, PAGE 87, IN KING COUNTY, WASHINGTON.