Hillary Hamilton
FAS Renton Office Lease ORD
October 2, 2013
Version #1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 117988

AN ORDINANCE authorizing the Director of Finance and Administrative Services to execute an amendment to a lease last authorized by Ordinance 121686, extending the City's lease of office space at 600 39th Avenue SW in Renton, Washington from LBA REALTY FUND II-COMPANY IV, LLC, on behalf of the Human Services Department's Aging & Disability Services Division.

WHEREAS, in November, 2004, Ordinance 121686 authorized a predecessor department of the Department of Finance and Administrative Services (FAS) to lease office space at the Times Square Building, located at 600 39th Avenue SW in Renton for the Case Management Unit of the Human Services Department's Aging & Disability Services Division, serving clients throughout King County; and

WHEREAS, LBA REALTY FUND II-COMPANY IV, LLC (Landlord) is the current owner and landlord for that property, and the existing lease agreement expires on February 28, 2014; and

WHEREAS, after extensive negotiations the Landlord and FAS agreed to have the new lower lease rate be retroactive to July 1, 2013; and

WHEREAS, the current location meets the operational requirements of the Aging & Disability Services Division and is more cost effective than moving to an alternate location; and

WHEREAS, it is standard City practice for the Department of Finance and Administrative Services to procure leased office space on behalf of the Human Services Department, pay rent to the landlord for such leased space, and subsequently receive reimbursement from the Human Services Department; and

WHEREAS, the proposed lease amendment extends the term of the lease until November 30, 2021 and also provides for an additional five-year extension at the City's option; and

WHEREAS, Seattle Municipal Code 3.127.020 requires City Council approval for entry into any lease with a term in excess of five years, inclusive of any extension periods; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. As requested by the Director of Finance and Administrative Services and recommended by the Mayor, said Director or his or her designee is hereby authorized to execute, for and on behalf of the City of Seattle, an amendment to a lease agreement with LBA REALTY FUND II-COMPANY IV, LLC, substantially in the form of Exhibit "1" attached hereto and identified as "Third Amendment to Office Lease," providing for the City of Seattle's tenancy and occupancy of a portion of the real property commonly known as 600 SW 39th Street, in Renton, Washington.

Section 2. Once fully executed, the Third Amendment to Office Lease will be retroactively effective as of July 1, 2013 and will terminate on November 30, 2021.

Section 3. Additionally, the Director or his or her successor is further authorized to extend the term of the lease for an additional five-year extension as determined by the Director to be in the best interest of the City, on the terms provided under the Third Amendment to Office Lease.

Section 4. The rental payments contemplated by the terms of the lease agreement authorized in Section 1 hereof shall be charged to the appropriate expenditure allowance or allowances in the budget of the Department of Finance and Administrative Services and shall be reimbursed to that Department by the Department of Human Services.

Section 5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2013, and signed by me in open session in authentication of its passage this _____ day of _____, 2013.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2013.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Exhibit 1: Lease Agreement

Bill Craven
FAS Renton Office Lease ORD Exhibit 1
October 25, 2013
Version #1

THIRD AMENDMENT TO OFFICE LEASE

This THIRD AMENDMENT TO OFFICE LEASE ("**Amendment**"), dated for references purposes only as of _____, 2013, is entered into by and between LBA REALTY FUND II-COMPANY IV, LLC, a Delaware limited liability company (as successor-in-interest to Bedford Property Investors, Inc., a Maryland corporation) ("**Landlord**"), and THE CITY OF SEATTLE, a municipal corporation of the State of Washington ("**Tenant**").

RECITALS:

A. Landlord and Tenant are parties to that certain Office Lease dated September 13, 2004 including Addendum No. 1 to Lease attached thereto (the "**Original Lease**"), as amended by that certain First Amendment to Lease dated December 21, 2006 (the "**First Amendment**") and that certain Second Amendment to Lease dated June 26, 2009 (the "**Second Amendment**"). The Original Lease, as amended by the First Amendment and Second Amendment, is hereafter referred to as the "**Lease**". Pursuant to the Lease, Tenant currently leases from Landlord those certain premises commonly known as Suite 155 containing approximately 13,632 rentable square feet of space (the "**Premises**"), located on the first (1st) floor of that certain building commonly known as the 600 Building (the "**Building**") located at 600 S.W. 39th Street, Renton, Washington, as more particularly described in the Lease.

B. The Term of the Lease is scheduled to expire by its terms on February 28, 2014. The parties desire to enter into an early renewal and retroactively extend the Term of the Lease, and to further amend the Lease on the following terms and conditions.

C. Capitalized terms which are used in this Amendment without definition shall have the meanings assigned to them in the Lease.

AGREEMENT:

NOW, THEREFORE, in consideration of the above Recitals, the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. New Term. The Term of the Lease is hereby extended such that the Term shall now expire on November 30, 2021 (the "**New Term Expiration Date**"). The period commencing retroactively on July 1, 2013 (the "**New Term Commencement Date**") and ending on the New Term Expiration Date, consisting of one hundred one (101) months, shall hereafter be referred to as the "**New Term**". No such extension shall operate to release Tenant from liability for any amounts owed or defaults which exist under the Lease as amended hereby (the "**Amended Lease**") prior to the New Term Commencement Date.

2. Base Rent. Notwithstanding anything to the contrary in the Lease, effective retroactively as of the New Term Commencement Date, minimum monthly Base Rent for the Premises shall be amended and be payable by Tenant in accordance with the following schedule:

Period of New Term	Minimum Monthly Base Rent
7/1/13 – 6/30/14	$16,188.00*
7/1/14 – 6/30/15	$16,756.00
7/1/15 – 6/30/16	$17,324.00
7/1/16 – 6/30/17	$17,892.00
7/1/17 – 6/30/18	$18,460.00
7/1/18 – 6/30/19	$19,028.00
7/1/19 – 6/30/20	$19,596.00
7/1/20 – 6/30/21	$20,164.00
7/1/21 – 11/30/21	$20,732.00

* Notwithstanding the foregoing, provided Tenant is not in default under the Amended Lease, Landlord agrees to abate in full Tenant's obligation to pay the minimum monthly Base Rent due for the months of July, 2013 through March, 2014, inclusive (the "**Abatement Months**") (such amount of abated minimum monthly Base Rent being hereafter collectively referred to as the "**Abated Amount**"). During the Abatement Months, Tenant will still be responsible for the payment of all other monetary obligations due under the Amended Lease. Tenant acknowledges that any default by Tenant under the Amended Lease will cause Landlord to incur costs not contemplated hereunder, the exact amount of such costs being extremely difficult and impracticable to ascertain. Therefore, should Tenant at any time during the New Term be in default after having been given notice and opportunity to cure, then, in addition to all of Landlord's other rights and remedies, the total unamortized sum of the Abated Amount (amortized on a straight line basis over the New Term) so conditionally excused shall become immediately due and payable by Tenant to Landlord; provided, however, Tenant acknowledges and agrees that nothing in this paragraph is intended to limit any other remedies available to Landlord at law or in equity under applicable law, in the event Tenant defaults under the Amended Lease beyond any applicable notice and cure period and Landlord terminates the Amended Lease.

3. Condition of Premises. Tenant acknowledges that it is presently in possession of the Premises and is fully aware of the condition of the Premises and that, except as provided in Section 4 below, Landlord shall not be obligated to refurbish or improve the Premises or otherwise fund improvements for the Premises in any manner whatsoever in conjunction with the New Term, and Tenant accepts the Premises in its "AS-IS" condition. Tenant further acknowledges that except as expressly provided in the Lease and this Amendment, neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the improvements, refurbishments, or alterations therein, if any, or the Building, or with respect to the functionality thereof or the suitability of any of the foregoing for the conduct of Tenant's business in the Premises, and that all representations of Landlord, if any, are as set forth in the Lease and this Amendment.

4. Tenant Improvements. Landlord hereby grants to Tenant an allowance of up to One Hundred Seventy Thousand Four Hundred and 00/100ths Dollars ($170,400.00) (the "**Allowance**"), which shall be used by Tenant to pay for costs of completing Tenant Improvements (as defined in the Work Letter attached hereto as Exhibit A) subject to, and in accordance with, the Work Letter attached hereto. To the extent any unused portion of the Allowance remains upon completion of the Tenant Improvements, Tenant shall have the right to apply up to One Hundred Two Thousand Two Hundred Forty and 00/100ths Dollars ($102,240.00) of such unused portion as a credit toward Tenant's obligation to pay Base Rent next due and payable under the Amended Lease. If Tenant elects to apply any unused portion of the Allowance to Base Rent on or before June 30, 2014, Landlord may at any time thereafter elect to accelerate the application of any unused portion of the Allowance by either or both: (i) applying such as a credit against Base Rent, Operating Costs and/or Additional Rent during any month or months of the New Term; or (ii) paying to Tenant in cash the balance of the unused Allowance.

5. Option to Extend. Landlord hereby grants to Tenant one (1) option to extend the New Term by an additional period of five (5) years, subject to the terms and conditions of Rider No. 1 and Rider No. 2 attached hereto and made a part hereof. Tenant acknowledges and agrees that except as otherwise provided herein, Tenant has no options to further extend the New Term. Accordingly, Sections I (Option to Extend the Terms – Negotiated Rental) and II (Fair Market Rental) of Addendum No. 1 to Lease are hereby deleted in their entirety and rendered of no further force or effect.

6. Amendment of Provisions.

a. Sections III and IV of Addendum No. 1 to Lease are hereby deleted in their entirety and are of no further force or effect

b. Section 2.1 of Exhibit E to Lease is hereby restated in its entirety to read as follows:

> "2.1 Operating Costs. Tenant shall pay to Landlord, as Additional Rent, Tenant's Pro Rata Share of the Operating Costs for any Lease Year, calculated by multiplying the Pro Rata Percent times the actual Operating Costs for the Lease Year. If any Lease Year of less than twelve months is included within the Term, the amount payable by Tenant for such period shall be prorated on a per diem basis (using a 360-day year)."

c. Notwithstanding anything in the Lease to the contrary, and for the avoidance of doubt, Section 2.23 of the Original Lease is hereby amended so that the following is added as subsection (t):

> "(t) costs incurred in the management of the Property, including, without limitation: supplies, materials, equipment and tools; wages, salaries, benefits, pension payments, fringe benefits, uniforms and dry-cleaning thereof (and payroll taxes, insurance and similar governmental charges related thereto) of employees used in the operation and maintenance of the Property, and labor costs of contractors and vendors engaged in the operation and maintenance of the Property."

d. The following is hereby added to the end of Section 2.23 of the Original Lease:

"Landlord reserves the right to calculate Operating Costs assuming the Building is fully (i.e., 100%) occupied during all or a portion of any Lease Year."

7. Broker. Tenant represents and warrants to Landlord that, with the exception of Flinn Ferguson Corporate Real Estate representing Tenant, it is not aware of any brokers, agents or finders who may claim a fee or commission in connection with the consummation of the transactions contemplated by this Amendment. If any claims for brokers' or finders' fees in connection with the transactions contemplated by this Amendment arise, then Tenant agrees to indemnify, protect, hold harmless and defend Landlord (with counsel reasonably satisfactory to Landlord) from and against any such claims if they shall be based upon any statement, representation or agreement made by Tenant.

8. Representations and Warranties. Tenant hereby represents, warrants, and agrees that: (a) there currently exists no breach, default, or event of default by Landlord under the Lease, or any event or condition which, with notice or passage of time or both, would constitute a breach, default, or event of default by Landlord under the Lease; (b) the Lease continues to be a legal, valid, and binding agreement and obligation of Tenant; and (c) Tenant has no current offset or defense to its performance or obligations under the Lease. Tenant hereby waives and releases all demands, charges, claims, accounts, or causes of action of any nature whatsoever against Landlord or Landlord's members, managers, officers, directors, employees or agents, including without limitation, both known and unknown demands, charges, claims, accounts, and causes of action that have previously arisen out of or in connection with the Lease.

9. Authority. Each signatory of this Amendment represents hereby that he or she has the authority to execute and deliver the same on behalf of the party hereto for which such signatory is acting.

10. No Other Modification. Landlord and Tenant agree that except as otherwise specifically modified in this Amendment, the Lease has not been modified, supplemented, amended, or otherwise changed in any way and the Lease remains in full force and effect between the parties hereto as modified by this Amendment. To the extent of any inconsistency between the terms and conditions of the Lease and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall apply and govern the parties. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same Amendment.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

TENANT:

THE CITY OF SEATTLE, a municipal corporation of the State of Washington

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

On this __ day of _____, 2013, before me personally appeared _____, to me known to be the individual who executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said individual, for the uses and purposes therein mentioned.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year first above written.

_____
_____
(print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at _____

My Commission expires: _____

[Seal or Stamp]

[SIGNATURE CONTINUED ON FOLLOWING PAGE]

LANDLORD:

LBA REALTY FUND II-COMPANY IV, LLC,
a Delaware limited liability company

By: LBA Realty Fund II, L.P.,
a Delaware limited partnership,
its sole Member and Manager

By: LBA Management Company II LLC,
a Delaware limited liability company,
its General Partner

By: LBA Realty LLC,
a Delaware limited liability company,
its Manager

By: LBA Inc.,
a California corporation,
its Managing Member

By: _____
Name: _____
Title: _____

For LBA Office Use Only: Prepared & Reviewed by: _____

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 2013, before me, _____, (insert name and title of the notary officer) notary public, personally appeared _____, who proved to who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Form revised: December 12, 2012

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
FAS	Bill Craven / 733-9328	Jennifer Devore 615-1328

Legislation Title: AN ORDINANCE authorizing the Director of Finance and Administrative Services to execute an amendment to a lease last authorized by Ordinance 121686, extending the City's lease of office space at 600 39th Avenue SW in Renton, Washington from LBA REALTY FUND II-COMPANY IV, LLC, on behalf of the Human Services Department's Aging & Disability Services Division.

Summary of the Legislation:
This legislation authorizes the Director of Finance and Administrative Services (FAS) to amend a lease agreement with LBA REALTY FUND II-COMPANY IV, LLC for approximately 13,632 square feet of office space, located at 600 39th Avenue S.W. in Renton. The tenant is, and will continue to be the Human Services Department (HSD). This action amends an existing lease to add an additional eight years and five months to the term of the lease and, at the City's discretion, a further five-year extension. If authorized by City Council, the Third Amendment to Office Lease will be retroactively effective to July 1, 2013 upon signature of the Director, and will terminate on November 30, 2021, unless the City exercises its extension option. The legislation is required because the amount of leased space exceeds FAS' leasing authority under Seattle Municipal Code 3.127.020.C.2 and exceeds the length of term that the Director is authorized to approve by Seattle Municipal Code 3.127.020.A.

Background:
In 2004, the City entered into a lease for 8,312 square feet of office space at the Times Square Building at 600 39th Avenue S.W. in Renton Washington on behalf of the Case Management Unit of the Aging & Disability Services Division of the Human Services Department. The new lease allowed HSD to move from overcrowded facilities in the Kent Commons yet continue to serve their clients throughout south King County. The lease had an expiration date August 30, 2011, with a five-year renewal option. The lease was authorized by Ordinance 121686.

The lease was first amended in 2006, enlarging the space to 10,934 square feet, consistent with the expansion option provided in the original lease. Another expansion to the current 13,632 square feet was authorized by a second amendment in 2009. With the City choosing to exercise the option to extend the lease the expiration date was reset to February 28, 2014.

In 2013, FAS and HSD toured several other office buildings in south King County to analyze whether moving to a new location would be cost effective. Although several proposals for other office buildings were evaluated, remaining at the Times Square Building proved to be the most cost-effective solution. In addition to a lower rental rate, the City negotiated a nine month rent abatement clause that is retroactively effective from July 2013 through March 2014. Starting in March 2014 the new monthly rent is actually lower than the rent in 2009 and HSD will avoid

move costs by remaining at the current location.

_X___ This legislation has financial implications.

Appropriations:

Fund Name and Number	Department	Budget Control Level*	2013 Appropriation	2014 Anticipated Appropriation
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

Appropriations Notes:
No additional appropriation is necessary for the remainder of 2013 as the lease rate remains the same until July 1, 2014, at which time the lease rate increases by 3.5%. Future year lease rates will be included in the annual budget.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2013 Revenue	2014 Revenue
TOTAL				

Revenue/Reimbursement Notes:
No new additional revenue/reimbursement is anticipated in this legislation.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:
N/A

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2013 Expenditures	2014 Anticipated Expenditures
TOTAL				

** See budget book to obtain the appropriate Budget Control Level for your department.*

Spending/Cash Flow Notes:
Table 1 below illustrates the lease costs for the portion of 2013 in which the lease will take effect and the entirety of 2014.

Table 1: Rent Payments for HSD Aging & Disability Services Division 2013 and 2014 covered by legislation.

Cost	2013	2014			
	July-Dec 2013	Jan – March 2014	April - June 2014	July - Dec 2014	Total 2014
Yearly Rent	$0.00	$0.00	$48,564.00	$97,128.00	$145,692.00
FAS OH 3%	$0.00	$0.00	$1,456.92	$2,913.84	$4,370.76
Op Exp (Estimates)*	$28,388.64	$14,762.10	$14,762.10	$29,524.20	$59,048.40
Total	$28,388.64	$14,762.10	$64,783.02	$129,566.04	$209,111.16

* This is a full service lease, meaning that janitorial and utility payments are included in the operating expenses as well as common area maintenance charges and taxes and insurance. The cost is comparable to that for operating expenses in other buildings owned and leased by FAS.

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
This legislation will obligate the City to pay to the landlord the monthly rental amount as described above through November 30, 2021.

b) **What is the financial cost of not implementing the legislation?**
If the lease is not extended for the office space, HSD will need to relocate its Aging & Disability Services Division office in south King County to another leased office property incurring substantial moving costs and potentially higher lease rates. The move could be time consuming and temporarily interrupt the Division's services to its constituents.

c) **Does this legislation affect any departments besides the originating department?**
Yes, FAS administers this lease on behalf of the Human Services Department.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
The only viable alternative would be to secure similar office space at a property that would likely be inferior to this office space, while not achieving any financial advantage.

e) **Is a public hearing required for this legislation?**
No.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.

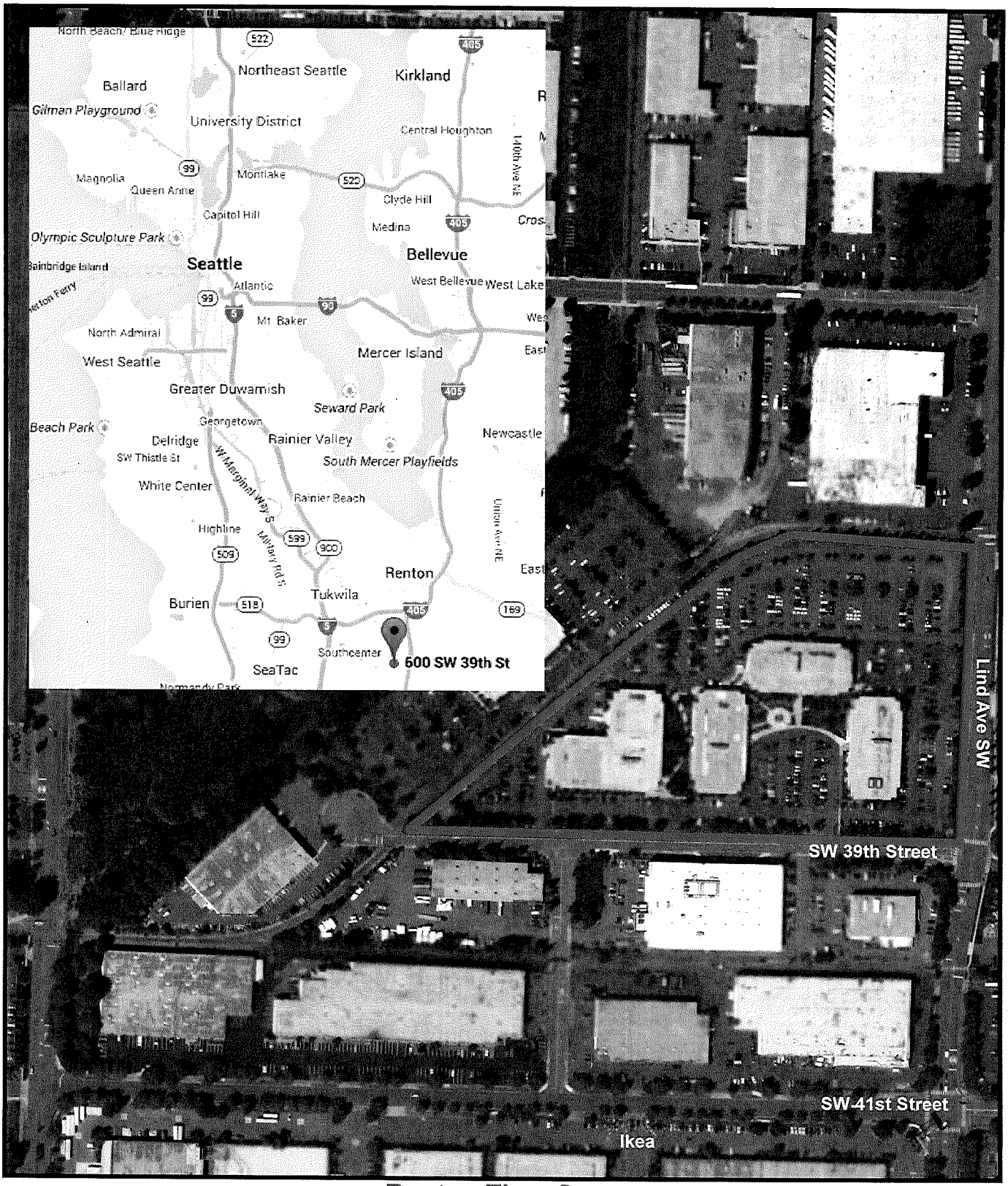
g) **Does this legislation affect a piece of property?**
Yes, this legislation authorizes the Director of Finance and Administrative Services to

execute a lease agreement on a portion of property located at 600 39th Avenue S.W. in Renton. Please see Attachment 1, proximity map of the leased office space.

h) Other Issues:

List attachments to the fiscal note below:
Attachment 1: Proximity map of leased property

Bill Craven
FAS Renton Office Lease FISC ATT 1
October 25, 2013
Version #1



Renton Time Square
600 39th Avenue, Renton
Human Services Department
Aging and Disability Services

City of Seattle

N

Produced by the City of Seattle FAS
Real Estate Services, Craven
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completeness, or fitness of use.
October 2013

City of Seattle
Office of the Mayor

November 12, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill authorizing the Director of Finance and Administrative Services (FAS) to execute a lease amendment with LBA REALTY FUND II-COMPANY IV, LLC. The lease amendment which extends the term of Human Services Department's (HSD) lease at 600 39th Avenue S.W. in Renton through November 2021 and provides the City with the option to extend for one additional five-year term. As a result of the negotiations between the City of Seattle and the Landlord this proposed lease amendment will be retroactive to July 1, 2013, allowing for the City to take advantage of the lower lease rate immediately.

The Case Management Unit of HSD's Aging & Disability Services Division, which serves clients throughout King County, has leased this office space since 2004. The City explored other options in south King County and believes that remaining at the current location is a cost effective solution meeting the operational requirements of the Division.

The lease amendment authorized by this legislation will provide HSD's Aging & Disability Services Division with the space it needs to serve its clients. Should you have questions, please contact Bill Craven at 733-9238.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
Office of the Mayor
600 Fourth Avenue, 7th Floor
PO Box 94749
Seattle, WA 98124-4749

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mike.mcginn@seattle.gov