

Ordinance No. 121214

Council Bill No. 114586

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of a lease agreement with Pottery Northwest, Inc., for use of space on the Seattle Center campus.

CF No. _____

Date Introduced: <u>JUN - 9 2003</u>		
Date 1st Referred: <u>JUN - 9 2003</u>	To: (committee) <u>Parks, Education & Libraries Committee</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: <u>7-14-03</u>	Full Council Vote: <u>9-0</u>	
Date Presented to Mayor: <u>7-15-03</u>	Date Approved: <u>7.21-03</u>	
Date Returned to City Clerk: <u>7-22-03</u>	Date Published: <u>app.</u>	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

Committee Action:

3-0 PS JN, JD

7-14-03 Passed 9-0

This file is complete and ready for presentation to Full Council. Comm

Law Dept. Review

OMP
Review

City Clerk
Review

FW

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

Peter Steinmark

Councilmember

Committee Action:

3-0 PS JN, JD

7-14-03 Passed 9-0

Department;
Pottery
Center

Education &
Committee

03

T.O. ☒
F.T. ☐

This file is complete and ready for presentation to Full Council.

Committee: _____

(Initial/Date)

Law Dept. Review

OMP
Review

(Signature)
City Clerk
Review

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ORDINANCE 121214

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of a lease agreement with Pottery Northwest, Inc., for use of space on the Seattle Center campus.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. As requested by the Seattle Center Director and recommended by the Mayor, the Seattle Center Director or her designee is authorized to execute, for and on behalf of The City of Seattle, a lease agreement with Pottery Northwest, Inc., substantially in the form of the agreement attached hereto and identified as "LEASE AGREEMENT BETWEEN THE CITY OF SEATTLE AND POTTERY NORTHWEST, INC." (Attachment 1) under which, for a term of four and one-half years, with an option to extend for three additional two-year terms, Pottery Northwest, Inc., will lease space on the Seattle Center campus.

Section 2. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

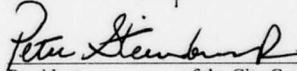
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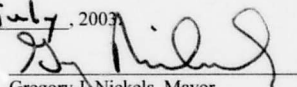
Ned Dunn/nd
Pottery Northwest Ordinance
May 21, 2003
version #1

1 Section 3. This ordinance shall take effect and be in force thirty (30) days from and after
2 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
3 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

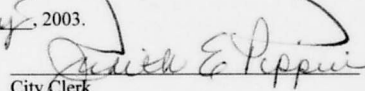
4 Passed by the City Council the 14th day of July, 2003, and signed by me in open
5 session in authentication of its passage this 14th day of July, 2003.

6
7 
8 President _____ of the City Council

9 Approved by me this 21 day of July, 2003.

10 
11 Gregory J. Nickels, Mayor

12 Filed by me this 22 day of July, 2003.

13 
14 City Clerk

15
16
17 (Seal)

18 Attachment 1: LEASE AGREEMENT BETWEEN THE CITY OF SEATTLE AND POTTERY
19 NORTHWEST, INC.

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ATTACHMENT 1: LEASE AGREEMENT BETWEEN THE CITY OF
SEATTLE AND POTTERY NORTHWEST, INC.

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**LEASE AGREEMENT
BETWEEN THE CITY OF SEATTLE AND
POTTERY NORTHWEST, INC.**

Table of Contents

1.	PREMISES	1
2.	LEASE TERM	2
3.	RENT	2
4.	LATE CHARGE; INTEREST	4
5.	WAIVER; INDEMNIFICATION	4
6.	INSURANCE	5
7.	COVENANTS REGARDING OPERATION OF LESSEE'S BUSINESS	8
8.	UTILITY SERVICES	9
9.	PARKING	10
10.	SIGNAGE, ADVERTISING & PUBLICITY	10
11.	MAINTENANCE, CLEANING & REPAIR	11
12.	CITY ACCESS TO, & INSPECTION, REPAIR & IMPROVEMENT OF PREMISES & OTHER PROPERTY	12
13.	COMPLIANCE WITH LAW	13
14.	ENVIRONMENTAL STANDARDS	14
15.	CITY'S CONTROL OF BUILDINGS, GROUNDS & ACTIVITIES	16
16.	ASSIGNMENTS, SUBLEASES & OTHER INTEREST TRANSFERS	17
17.	EXCUSE & SUSPENSION OF OBLIGATIONS (FORCE MAJEURE)	18
18.	DAMAGE OR DESTRUCTION	18
19.	DEFAULT & BREACH	20
20.	REMEDIES CUMULATIVE	22
21.	SURRENDER OF PREMISES; HOLDING OVER	22
22.	NOTICES	23
23.	NO RELATIONSHIP ESTABLISHED	24
24.	AUTHORITY OF "DIRECTOR"	24
25.	AMENDMENTS	24
26.	NO WAIVER	24
27.	USE OF LANGUAGE	24
28.	CAPTIONS	25
29.	INVALIDITY OF PARTICULAR PROVISIONS	25
30.	GOVERNING LAW & VENUE	25
31.	BINDING EFFECT	25
32.	INSTALLATION OR INTEGRATION OF VISUAL ART WORKS PROHIBITED WITHOUT DIRECTOR'S CONSENT	25
33.	ATTORNEYS FEES	26
34.	ACKNOWLEDGEMENT OF NEGOTIATED LEASE	26
35.	EXHIBITS	27

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Attachment 1
LEASE AGREEMENT
BETWEEN THE CITY OF SEATTLE AND
POTTERY NORTHWEST, INC.

THIS LEASE is entered into by THE CITY OF SEATTLE ("City"), a municipal corporation of the State of Washington, acting by and through the Director of the Seattle Center Department ("Director"), and POTTERY NORTHWEST, INC., ("Lessee"), a Washington non-profit corporation.

In consideration of their mutual promises, the parties mutually agree as follows:

1. PREMISES

A. Grant: The City hereby leases to Lessee those certain premises (the "Premises") consisting of approximately 10,800 square feet, in a portion of the building located at 226 First Avenue North, Seattle, WA, legally described as Lot Eleven (11), Block Thirty (30), D. T. Denny's Plan of North Seattle, according to plat recorded in Volume One of Plats, Page 41, Records of King County, Washington.

The site plan depicting the Premises is attached to this Lease as Exhibit A.

B. Condition: City shall deliver and Lessee accepts the Premises "AS IS." Tenant shall undertake no tenant improvements without first obtaining written permission from the Director, whose permission shall be given or withheld in her/his sole discretion.

C. Permitted Use: Lessee shall use the Premises only for the following purposes:

(i) to provide regular pottery classes open to the general public, and presentations, workshops, master classes and the like by regionally or nationally recognized potters;

(ii) to provide a work-space for potters, including but not limited to facilities and equipment for clay making, the wheel-throwing and hand-building of pots and other clay objects, and the glazing and firing of such objects, which facilities and equipment shall be available for use by potters on a request basis; and

(iii) to provide a gallery for the display and sale of pottery objects,

D. Assumption of Risk: The placement and storage of personal property in the Premises or any other Seattle Center facility shall be the responsibility, and at the sole risk, of the Lessee.



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2. LEASE TERM

A. Initial Term. The Lease Term shall be four and ½ (4 1/2) years, (the "Initial Term") beginning on July 1, 2003, and ending on December 31, 2007 (the "Expiration Date"), unless the Lease Term is extended or sooner terminated as provided herein.

B. Lessee's Opportunity to Extend the Lease Term. Provided at any time before or after notice is required under this Subsection 2.b. (i) Lessee has not defaulted in any of its obligations under the Lease, or (ii) Lessee has defaulted but has cured all such defaults to the satisfaction of the Director, this Lease Term may be extended every two years for a total of three additional two (2)-year periods (each two year period an "Extended Term") upon the terms and conditions contained in the Lease. In order to be eligible for any Extended Term, Lessee must notify the City, in writing, of its desire for an Extended Term not later than six (6) months prior to expiration of the Initial Term and not later than six (6) months prior to expiration of each Extended Term, if applicable.

3. RENT

A. Rent Defined:

Base Rent: The Base Rent due the initial partial calendar year of the Lease Term (i.e. July 1, 2003 – December 31, 2003) is \$14,400. The Base Rent due the first full calendar year of the Lease Term (i.e. January 1, 2004 - December 31, 2004) is \$28,800.

B. Additional Rent: In years 2008, 2010, and 2012, Lessee shall pay as "Additional Rent" the sum of \$2,500.

C. Adjusted Rent: The Base Rent (with CPI adjustment) plus the Additional Rent, if any is then due, shall be the "Adjusted Rent." In years where no Additional Rent is due, the Base Rent adjusted for CPI shall also be called the "Adjusted Rent."

D. CPI Increase: The Base Rent and Adjusted Rent shall be increased each January 1st commencing January 1, 2005, during the term hereof by the percentage increase (if any) in the Consumer Price Index for All Urban Consumers ("CPI-U" / 1982-84 = 100) Seattle-Tacoma-Bremerton, WA Area as published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor, that occurred during the immediately preceding calendar year; Provided, that in the event of a change in the index base of (1982-84 = 100) or other modification of such index, the City shall apply whatever conversion factors are necessary to establish an adjusted CPI-U that produces the percentage increase in the CPI-U for each such annual period that would have been produced had no change been made in such index by its publisher; and in the event such index is discontinued, the Director shall select and use for such rent adjustment purpose a similar index that reflects consumer price changes. In no case shall the value of the annual CPI-U percentage adjustment applied to Monthly Base Rent or Monthly Adjusted Rent be less than zero (0).

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The following table illustrates the application of the CPI:

	Column 1	Column 2	Column 3	Column 4
Contract Year	Previous Years Adjusted Rent	Multiplied by CPI**	Plus Add'l Rent	Adjusted Rent (Equals=column 2 plus column 3)(i.e. years "Total")
2003	\$14,400	N/A	\$0	\$14,400
2004	\$28,800 *	N/A	\$0	\$28,800
2005	2004 Total	\$+	\$0	\$=
2006	2005 Total	\$+	\$0	\$=
2007	2006 Total	\$+	\$0	\$=
2008	2007 Total	\$+	\$2,500	\$=
2009	2008 Total	\$+	\$0	\$=
2010	2009 Total	\$+	\$2,500	\$=
2011	2010 Total	\$+	\$0	\$=
2012	2011 Total	\$+	\$2,500	\$=
2013	2012 Total	\$+	\$0	\$=

* In this one instance only, the number in Column 1 (\$28,800) does not represent the previous years Adjusted Rent because the previous "year" of the Lease was a six month period.

** If CPI is ever zero, ignore Column 2.; in any such instance Adjusted Rent shall equal Column 1 plus Column 3.

To summarize, in order to determine Adjusted Rent due in any particular year, the Parties will

- (1) take the amount in column 1,
- (2) multiply it by the CPI index (such product would appear in column 2,
- (3) add any Additional Rent due that year (see column 3) to arrive at Adjusted Rent due.

C. Lessee's opportunity to offset Base Rent with Services: Twenty five percent (25%) of the annual Base and Adjusted Rent due under this Lease shall be eligible for offset with services. To be eligible for the offset, Lessee must provide a service or services of benefit to the City. If Lessee desires to take advantage of this opportunity in any given month, then Lessee must notify the Director in writing as provided in Section 22, four weeks prior to the first of the month in which the proposed offsetting services would be rendered. Such notice shall list the proposed services to be rendered and the proposed value of such services, supported by an itemized accounting of time, labor rates, and materials, with corresponding dollar values. The Director may propose an



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alternate valuation of the proposed services. The Director will make the final determination in his/her sole discretion whether the City will accept or reject Lessee's proposed services as an offset and will so notify Lessee in writing. If accepted, the value of the services performed will be credited to the next monthly payment due of Base Rent or Adjusted Rent after Lessee has completed performance of the services.

D. Time and Manner of Payment: Lessee shall pay to City without notice or demand, in lawful money of the United States (a) one-twelfth (1/12th) of the annual Rent due, Base Rent in year one and Adjusted Rent thereafter, less any offset that has been approved in writing by the Director, in advance of the first day of each month and (b) any additional sums due, without offset, as and when specified elsewhere in this Lease, but if not specified, then within ten (10) days after demand.

If City notifies Lessee of the amount that the Rent is annually increased for the CPI adjustment after Lessee has already made payment(s) for the adjusted period(s), then Lessee shall remit the difference owing and retroactively due within seven (7) days after the date of the City's notice of the amount of each such annual increase. Lessee shall thereafter pay the increased Adjusted Rent when due as specified in this Lease.

E. Place of Payment: All payments shall be delivered to The City of Seattle, Seattle Center Fiscal Services & Accounting, 305 West Harrison Street, Seattle, Washington, 98109, or to such other address as the Director shall specify by notice to Lessee.

4. **LATE CHARGE; INTEREST.** If Lessee fails to pay any Base Rent or additional sums due under this Lease within five (5) days after the due date, a service charge of Fifty Dollars (\$50.00), or such larger sum as may be established by ordinance, shall be assessed for each month or portion of a month that the delinquency continues. Such assessment(s) is/are immediately due and payable. In addition, interest on such delinquent amount(s) shall accrue at the rate of one and one-half percent (1 1/2 %) per month from the date due until paid. In the event any check for payment is returned for insufficient funds, Lessee shall pay an administrative charge of \$20.00. If Lessee defaults in making any payment of Base Rent or Adjusted Rent or other sums due, City shall have the right to require that subsequent Base Rent or Adjusted Rent or other sums payments be made by cashiers or certified check.

5. **WAIVER; INDEMNIFICATION**

A. Lessee's Indemnification. Except as otherwise provided in this section, Lessee shall indemnify, defend (using legal counsel acceptable to City) and save City, its officers, agents, and employees harmless from any and all claims, suits, losses, damages, fines, penalties, liabilities and expenses arising out of or in connection with (i) Lessee's occupation, use or improvement of the Premises, or that of any of its officers, employees, agents, invitees, licensees, guests, or contractors, or (ii) Lessee's breach of its obligations hereunder or violation of law, or (iii) any act or omission of Lessee or any subtenant, licensee, assignee, or concessionaire of Lessee, or of any officer, agent,

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employee, guest, or invitee of any of the same in or about the Premises. Lessee agrees that the foregoing indemnity specifically covers actions brought by its own employees. The foregoing indemnity is specifically and expressly intended to constitute a waiver of Lessee's immunity under Washington's Industrial Insurance Act, RCW Title 51, as to the City only, and shall survive the termination or expiration of this Lease. Lessee shall promptly notify City of casualties or accidents occurring in or about the Premises. CITY AND LESSEE ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF THIS LEASE WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

B. Release of Claims. Lessee hereby waives and releases all claims against City for any losses or other damages sustained by Lessee resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of building equipment; any failure to make repairs; any defect, failure, surge in, or interruption of building facilities or services; broken glass; water leakage; the collapse of any building component; or any act or omission of any other occupants of the building.

C. Limitation of Lessee's Indemnification. In compliance with RCW 4.24.115 as in effect on the date of this Lease, all provisions of this Lease pursuant to which City or Lessee (the "Indemnitor") agrees to indemnify the other (the "Indemnitee") against liability for damages arising out of bodily injury to persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, road, or other structure, project, development, or improvement attached to real estate, including the building, (i) shall not apply to damages caused by or resulting from the sole negligence of the Indemnitee, its agents or employees, and (ii) to the extent caused by or resulting from the concurrent negligence of (a) the Indemnitee or the Indemnitee's agents or employees, and (b) the Indemnitor or the Indemnitor's agents or employees, shall apply only to the extent of the Indemnitor's negligence; PROVIDED, HOWEVER, the limitations on indemnity set forth in this section shall automatically and without further act by either City or Lessee be deemed amended so as to remove any of the restrictions contained in this section no longer required by then applicable law

6. INSURANCE

The Lessee shall secure and maintain in full force and effect at all times during the Term of this Lease, at no expense to City, a policy or policies of insurance as enumerated below.

A. A policy of Commercial General Liability Insurance, written on an insurance industry standard occurrence form (CG 00 01) or equivalent, including all the usual coverages known as:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual Liability
- Independent Contractors Liability



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- Stop Gap/Employers Contingent Liability
- Liquor Liability/Host Liquor Liability (as applicable)
- Fire Damage Legal Liability
- Elevator & Hoist Liability (as applicable)

Such policy (ies) must provide the following minimum limit:

Bodily Injury and Property Damage -

- \$ 2,000,000 General Aggregate
- \$ 2,000,000 Products & Completed Operations Aggregate
- \$ 1,000,000 Personal & Advertising Injury
- \$ 1,000,000 Each Occurrence
- \$ 100,000 Fire Damage

Stop Gap Employers Liability

- \$ 1,000,000 Each Accident
- \$ 1,000,000 Disease - Policy Limit
- \$ 1,000,000 Disease - Each Employee

Any deductible or self-insured retention must be disclosed and is subject to approval by the City's Risk Manager. The cost of any claim payments falling within the deductible shall be the responsibility of the Lessee.

B. A policy of Business Automobile Liability if applicable, including coverage for owned, non-owned, leased or hired vehicles written on an insurance industry standard form (CA 00 01) or equivalent.

Such policy (ies) must provide the following minimum limit:

Bodily Injury and Property Damage -

- \$ 1,000,000 Per Accident

C. A policy of Worker's Compensation. As respects Workers' Compensation insurance in the state of Washington, the Lessee shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. If the Lessee is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Lessee shall so certify by providing a copy of the state Certificate of Self-Insurance, and setting forth the limits of any policy of excess insurance covering its employees.

D. A policy of Property Insurance covering its furniture, fixtures, equipment and inventory and all improvements which it makes to the Premises in an amount equal to replacement cost thereof, against (a) loss from the perils of fire, and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (CP 10 30)", (b) Loss or damage from water damage, or sprinkler systems now or hereafter installed in on the premises; (c) Loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage.

E. Additional Insured and Changes of Coverage and Limits: Such insurance, as provided under items (A), (B) and (D) above, shall be endorsed to include the City, its officers, elected officials, employees, agents and volunteers as additional insured, and shall not be reduced or canceled without forty-five (45) days prior written notice to the

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City. In addition, Lessee's insurance shall be primary, as respects the City, and any other insurance maintained by the City shall be excess and not contributing insurance with the Lessee's insurance.

F. Coverage and/or limits may be altered or increased as necessary, to reflect type of or exposure to risk. City shall have the right to periodically review the appropriateness of such limits in view of inflation and/or changing industry conditions and to require an increase in such limits upon ninety (90) days prior written notice.

G. Evidence of Insurance: The following documents must be provided as evidence of insurance coverage:

- A copy of the policy's declarations pages, showing the Insuring Company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements.
- A copy of the endorsement naming The City as an Additional Insured, showing the policy number, and signed by an authorized representative of the insurance company on Form CG2026 (ISO) or equivalent.
- A copy of the "Endorsements Form List" to the policy or policies showing endorsements issued on the policy, and including any company-specific or manuscript endorsements.
- A copy of an endorsement stating that the coverages provided by this policy to the City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days prior written notice to the City.
- A copy of A "Separation of Insureds" or "Severability of Interests" clause, indicating essentially that, except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claim is made or suit is brought (Commercial General Liability & Business Automobile Liability Insurance).

H. All policies shall be subject to approval by the City's Risk Manager as to company (must be rated A-: VII or higher in the A.M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as a surplus line by a Washington Surplus lines broker), form and coverage, and primary to all other insurance.

I. If Lessee fails to maintain such insurance, City may do so, and Lessee shall reimburse City for the full expense thereof upon demand. Lessee shall not keep or use in or about the Premises any article, which is prohibited by City's insurance policy. Lessee shall pay immediately any increase in City's premiums for insurance during the term of this Lease that results from Lessee's use of the Premises.



J. Waiver of Subrogation. Neither City nor Lessee shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or tangible personal property of the other occurring in or about the Premises or Building, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees, if such loss or damage is covered by insurance benefiting the party suffering such loss or damage or was required under the terms of this Lease to be covered by insurance procured by the party suffering the loss.

K. Self-Insurance: Should Lessee be self-insured, under items (A) or (B) above, a letter from the Corporate Risk Manager, or appropriate Finance Officer, is acceptable - stipulating if actuarially funded and fund limits; plus any excess declaration pages to meet the contract requirements. Further, this letter should advise how Lessee would protect and defend the City of Seattle as an Additional Insured in their Self-Insured layer, and include claims handling directions in the event of a claim.

7. COVENANTS REGARDING OPERATION OF LESSEE'S BUSINESS

A. Personnel: Lessee shall employ courteous, competent, and efficient help in such numbers, skills, and experience as to properly conduct its activities on the Premises

B. Business Name: Lessee shall not change the name by which it carries on its business without the written consent of the Director whose consent shall not be unreasonably withheld.

C. Fixtures, Furnishings, and Trade Equipment: All fixtures, furnishings, and trade equipment installed in the Gallery shall be of high quality, of a modern type, and either new or completely reconditioned.

D. Schedule of Fees and Services: Lessee shall at all times conspicuously display at or near the main entrance to the Premises a schedule of fees charged for services of Lessee, and if Lessee should choose to alter its fees, such alteration shall be preceded by written notice one week in advance of the effective date thereof to the Director and notice conspicuously displayed to the public at or near the main entrance of the Premises for at least one week prior to the effective date of the charging of such fee or the variation thereof.

E. No Nuisances or Objectionable Activity: Lessee shall not permit any noise, odor, dust, vibration or similar substance or condition that the Director determines to be excessive or objectionable, to remain on or be emitted from the Premises; shall not interfere with access to or from the Premises or the Seattle Center or any part thereof, or with the traffic thereon, or with any Seattle Center facility, business, activity or utility on or off Seattle Center grounds. Lessee shall not create any nuisance in or adjacent to the Premises and shall not do anything on the Premises that will create a danger to life or limb.



F. Fire Extinguisher Within Premises: During the Initial Term and Extended Terms(s), if any, the Lessee shall secure, maintain and install in the Premises, in a prominent location, a 2A-10BC class fire extinguisher or an alternative approved by the Fire Marshall, and Lessee shall instruct all of its employees regarding its appropriate use. Such fire extinguisher shall be recharged not less than once a year and immediately following any use.

G. Objectionable Merchandise or Material: Notwithstanding any other provision of this Lease, the Lessee shall not display or offer for sale or rent, or allow to be displayed or offered for sale or rent, on the Premises, any merchandise or other material that the Director, in the exercise of such official's sole discretion, determines is unsafe; that portrays the City or Seattle Center or any aspect thereof in an incorrect, misleading, or unfavorable manner; that depicts or suggests in words, symbols, illustrations, or other forms, any act of violence, or any lewd, immoral, or obscene activity; that is inconsistent with the image of a first-class, family-oriented retail and entertainment development, or is otherwise inappropriate for a family-oriented recreation and entertainment facility such as Seattle Center; or that may create a substantial litter or other maintenance problem at Seattle Center.

H. Core and Key Change: Lessee shall obtain from the City, and pay in advance of delivery, the then current Seattle Center charge for whatever number of lock cores, padlocks and keys are desired for all doors in and to the Premises. If Lessee returns to the City all of the keys it obtained for the doors and padlocks on and to the Premises upon the expiration or earlier termination of this Lease, the City shall refund to Lessee all of the charges paid for such lock cores and keys.

I. Operation of gallery: Lessee shall operate a gallery on the premises for the display and sale of pottery objects. The gallery shall be furnished, equipped, and operated at no cost to the City.

8. UTILITY SERVICES

A. Extent of City Service: The City shall provide water and sewer service for the premises.

B. Lessee's Responsibility: The Lessee shall pay all charges for light, heat, and other public utilities (other than water and sewer), which shall be used in or charged against the Premises during the Initial Term and Extended Term(s), if any. The Lessee shall pay, before delinquency, all fees and charges for the installation, change, and relocation of any point or means of service by any utility or waste line or system.

C. Interruption: The City shall not be liable for the interruption of any utility service. Such interruption of service shall not constitute a constructive eviction and Lessee shall make no claims therefore. Lessee further covenants not to bring suit or make any claim for damages allegedly arising from such interruption.



D. Special Services and Facilities Subject to Prior Director's Approval, and at Lessee's Cost: Lessee, directly or through a third party, may install, secure, maintain and repair, at no expense to the City, any utility service related to Lessee's operations and its use of the Premises that is not provided or maintained by the City; however, any utility or waste disposal facility, item of equipment, or service beyond that provided to the Premises by the City, must be installed only in accordance with plans and specifications approved by the Director and other appropriate City officials, in writing, in advance of such installation. Lessee shall not install on the Premises any fixture, furnishing, or trade equipment that exceeds the capacity of any utility or waste facility for such location. Lessee shall pay, before delinquency, all fees and charges for the installation, change, and relocation of any point or means of service by any utility or waste line or system. Lessee shall make arrangements with the utility service provider for the separate metering, where possible, of such service and the direct billing to the Lessee for the delivery of such service.

9. PARKING:

As of the commencement date of this Lease, the Seattle Center has a "Cooperative Parking Status" under Title 23 of the Seattle Municipal Code. Accordingly, unless otherwise specifically provided herein, the City does not provide any parking that is specifically for or associated with the Premises (including but not limited to that required by or for Lessee's staff, suppliers or customers), and whatever general, non-reserved parking the City makes available for Seattle Center tenants and their respective staffs, suppliers, and customers shall be shared on a first-come, first-served basis.

10. SIGNAGE, ADVERTISING & PUBLICITY

A. Prohibited Promotion & Other Material; Removal of Same: Lessee shall not display, post, or distribute any sign, symbol, advertising of any nature, or any printed material (including but not limited to posters) on any part of the Seattle Center, including but not limited to the Premises, except after receiving written approval therefor from the Director, whose approval shall be given or withheld in his/her sole discretion; and may undertake such activity only in or on location(s) approved by the Director. On or before the expiration or termination date of this Lease, whichever is earlier, or in the case of unauthorized material, on or before the date specified in the Director's notice to remove the same, Lessee shall remove, at no expense to the City, all such signs, symbols, advertising and printed material; and correct any unsightly condition, and repair any damage or injury to City property caused by such signs, symbols, advertising and printed material, and the removal thereof. In the event any such unauthorized material is not removed from City property by the date required herein, such material may be treated as Lessee property subject to removal and storage pursuant to Section 21 hereof.

Any approved signs or other advertising matter shall be in compliance with all applicable laws, regulations and rules.



B. Use of Photos & Similar Materials: Each party hereto may make photographs, video tapes, and motion pictures of the Premises and the activity, people, displays and exhibits thereon; Provided, that in the event such visual material is to be used for commercial advertising purposes, prior to making the same, Lessee shall obtain the written approval of the Director for such use, which approval may be conditioned upon, among other things, the payment by the Lessee to the City of additional consideration; and prior to the use of any such photography, video tape, or motion picture, a written release shall be obtained from every individual identifiable in the same.

11. MAINTENANCE, CLEANING & REPAIR

A. City Responsibilities: The City shall maintain, clean and repair the exterior and structural aspects of the Premises, but not the interior areas of Premises. The City's maintenance, cleaning and repairing shall be to the ordinary standard of work performed on other, major use facilities at Seattle Center, to keep the same in good condition, normal wear and tear and damage and destruction by fire or other extraordinary casualty excepted. In connection therewith, the City shall remove garbage and other refuse from locations designated by the Director for such purpose, and repair potable water, sewer, and storm water lines connecting with similar lines on the Premises. In undertaking such maintenance, the City shall make a good faith effort to not unreasonably interfere with Lessee's business on the Premises. Lessee waives all claims for damages, including for any loss of business, resulting from City maintenance, cleaning and repair work except to the extent of City gross negligence. There shall be no abatement or reduction of rent arising by reason of City's making of any repairs, alterations, or improvements.

B. Lessee's Responsibilities: Lessee, at its own cost and expense, shall at all times keep the interior of the Premises, including all of Lessee's improvements, alterations, and additions thereto, and Lessee's personal property, in good repair and in a serviceable and sanitary condition. Notwithstanding Section 11.a., Lessee's responsibilities include repairing *all* damage done to the Premises by Lessee or any of Lessee's officers, contractors, agents, invitees, licensees or employees. In carrying out Lessee's responsibilities under this section, Lessee, among other things, shall:

- (1) Clean the interior glass in the windows, doors, display cases, and equipment on the Premises at least once a month, and replace any such glass immediately if it should crack or break
- (2) Repaint all painted surfaces at least once every five (5) years, and spot-paint any surface area that has become damaged immediately after such condition has been discovered;
- (3) Keep all drainage pipes free and open;
- (4) Have all plumbing and plumbing fixtures inspected at least once every quarter; repair all damage resulting from any plumbing fixture, any equipment connected to plumbing, or pipe not installed in the Premises by



the City or caused by Lessee's failure to keep such fixture or pipe in good operating condition; and in the event of any failure by Lessee to satisfy this repair obligation within four (4) hours after receipt of notice from the Director of any such damage, the City reserves the right to undertake such repair, the cost of which shall be reimbursed by the Lessee;

(5) In a timely and careful manner, periodically remove all debris generated by or peculiar to the Lessee's operations on the Premises and place in an area designated by the Director;

(6) Replace, from time to time, worn or irreparably damaged trade equipment, furnishings and fixtures with other material, disposing of the replaced item in accordance with the recycling requirements of section 13.e.

In the event the Lessee fails to satisfy, in a timely manner after its receipt of notice from the Director of the need for such work, any of the obligations specified in this subsection, the City reserves the right (but shall have no obligation) to undertake such work. City shall have the right to enter the Premises for such purposes. In the event the City undertakes such work for the Lessee pursuant to this subsection, the Lessee shall promptly pay the City, upon receipt of a written statement, the actual expenses incurred by the City in undertaking such work (including but not limited to Seattle Center labor and project management) plus an administrative charge of \$250.00.

12. CITY ACCESS TO, & INSPECTION, REPAIR & IMPROVEMENT OF PREMISES & OTHER PROPERTY

A. Access to Premises: The Lessee shall provide the City and its contractors and consultants, their subcontractors, subconsultants and agents with access to the Premises at all reasonable times to inspect the same and to make any inspection, repair or improvement deemed necessary by the Director, but this right of access shall not impose on the City any obligation to make any repair, alteration, addition, or improvement except as specifically provided herein.

B. Permitted Interference With Lessee's Operations: In inspecting, and in making repairs, alterations, additions, and improvements, the City may erect barricades and scaffolding in and outside of the Premises, and may otherwise interfere with the conduct of the Lessee's business and operations where such action is reasonably required by the nature of the City's work; and such interference shall not be deemed to be a breach or default under this Lease.

C. Suspension of Lessee's Operations and Obligation to Pay Monthly Base Rent: In the event such inspection, repair, alteration, addition, or improvement work necessitates the temporary suspension of Lessee's business or operations in, on, or from the Premises, the Director shall notify the Lessee of such necessity and the anticipated beginning and ending dates of such suspension. Monthly Base or Adjusted Base Rent due to City pursuant to this Lease shall be prorated during each month in which the



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Lessee's business or operations are required by City to be suspended pursuant to this section, and the Lessee shall have no obligation to pay such prorated rent during the period that the Lessee's business or operations are suspended; such cancellation of the obligation to pay the prorated Monthly Base or Adjusted Base Rent shall constitute the totality of relief available, and Lessee waives all claims for damages and for any injury to and interference with its operations or business and losses occasioned by any such suspension.

D. City's Retention & Use of Key to Premises: Lessee shall provide the Director with a key with which to unlock all of the doors in, upon, and about the Premises, excluding Lessee's vaults, safes, and files, for each of the aforesaid purposes. The City shall have the right to use any and all means that the Director deems proper to open said doors in an emergency, in order to obtain entry to the Premises, without liability to Lessee except for any failure to exercise due care for Lessee's property. Any entry to the Premises obtained by the City by any of said means, or otherwise, shall not be construed or deemed to be an eviction of Lessee or a forcible or unlawful entry into, or a detainer of, the Premises or any portion thereof.

13. COMPLIANCE WITH LAW

A. General Requirements: Lessee, at no cost to the City, shall perform and comply with all applicable, current and future laws of the United States; the State of Washington; the Charter and Municipal Code of The City of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. Lessee shall use its best efforts to ensure that every person it admits to the Premises similarly performs and complies with the same. Whenever Lessee or its authorized representative is informed of any violation of any such law, ordinance, rule, regulation, license, permit, or authorization committed by it or any person admitted to the Premises, Lessee shall immediately desist from and/or prevent or correct such violation.

B. Licenses, & Other Authorizations: Lessee shall obtain and maintain all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

C. Taxes: The Lessee shall pay, before delinquency, all taxes, levies, and assessments arising from its activities on or occupancy of the Premises, including but not limited to taxes arising out of the activity or business conducted on the Premises; taxes levied on its property, equipment and improvements on the Premises; and taxes on Lessee's interest in this Lease and any leasehold interest deemed to have been created thereby under RCW Ch. 82.29A; and in the event the State of Washington makes any demand upon the City for payment of leasehold excise taxes resulting from the Lessee's occupancy of the Premises or withholds funds due to the City to enforce collections of leasehold excise taxes, Lessee shall remit the taxes demanded together with any interest and penalties associated therewith or, at no expense to the City, contest such collection action and indemnify the City for all sums expended by, or withheld by the State of Washington from the City in connection with such taxation.



D. Nondiscrimination. Lessee shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including the Seattle Municipal Code (SMC), notably SMC 20.44, and rules, regulations, orders, and directives of the associated administrative agencies and their officers. SMC 20.44.040 is incorporated into this Lease by reference.

E. Recycling of Waste Materials: Lessee, at no cost to the City, shall collect, sort and separate into such categories as may be legally required, all solid waste products on the Premises, and recycle all such products that are locally accepted for recycling. Each separately sorted category of waste products shall be placed in separate receptacles reasonably approved by the City, which receptacles shall be dumped or removed from the Seattle Center at such minimum frequency as is specified by the Director. The City reserves the right to refuse to collect or accept from Lessee any waste product that is not sorted and separated as required by law, ordinance, rule or regulation, and to require Lessee to arrange for the collection of the same at Lessee's sole cost and expense using a contractor satisfactory to the City. Lessee shall pay all costs, fines, penalties, and damages that may be imposed on City or Lessee as a consequence of Lessee's failure to comply with the provisions of this subsection.

14. ENVIRONMENTAL STANDARDS

A. Definitions: For the purpose of this subsection, the following terms shall be defined as provided below unless the context clearly requires a different meaning:

(i) "Laws or Regulation" shall mean any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction of which Lessee has knowledge), now or hereafter in effect including but not limited to the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Comprehensive Environmental Response Compensation and Liability Act as amended by the Superfund Amendments and Re-authorization Act of 1986, the Resource Conservation and Recovery Act as amended by the Solid and Hazardous Waste Amendments of 1984, the Occupational Safety and Health Act, the Emergency Planning and Community Right-to-Know Act of 1986, and the Solid Waste Disposal Act.

(ii) "Hazardous Substances" shall mean any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any federal, state, or local statute, ordinance, or regulation relating to environmental protection, contamination or cleanup.

B. Restrictions on Lessee Activities: Lessee shall not cause to occur upon the Premises or permit the Premises to be used to generate, produce, manufacture, refine, transport, treat, store, handle, dispose, transfer, or process Hazardous Substances



except in compliance with all applicable Laws and Regulations. Lessee shall provide the Director with the Lessee's USEPA Waste Generator Number (if any), and with a copy of every Material Safety Data Sheet (MSDS), Generator Annual Dangerous Waste Report, environmentally related regulatory permit or approval (including every revision or renewal thereof) and any correspondence the Lessee receives from, or provides to, any governmental unit or agency in connection with Lessee's handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on the Premises.

C. Correction of Violations: If Lessee violates any of the terms of this section concerning the presence or use of Hazardous Substances or the handling or storing of hazardous wastes, Lessee shall promptly take such action as is necessary to mitigate and correct the violation. If Lessee does not act in a prudent and prompt manner, the City reserves the right, but not the obligation, to act in place of Lessee (for which purpose Lessee hereby appoints the City as its agent), to come onto the Premises and to take such action as the City deems necessary to ensure compliance or to mitigate the violation. If the Director has a reasonable belief that Lessee is in violation of any law or regulation, or that any action or inaction of Lessee presents a threat of violation or a threat of damage to the Premises, the City reserves the right to enter onto the Premises and take such corrective or mitigating action as the Director deems necessary. All costs and expenses incurred by the City in connection with any such action shall become immediately due and payable by Lessee upon presentation of an invoice therefor.

D. Testing: Lessee shall provide the City with access to the Premises to conduct an annual environmental inspection in January of each year of the term hereof or at such other time(s) as may be mutually agreed upon. In addition, Lessee shall permit the City access to the Premises at any time, upon reasonable notice, for the purpose of conducting environmental testing at the City's expense. Lessee shall not conduct or permit others to conduct environmental testing on the Premises without first obtaining the Director's written consent, which shall not be unreasonably withheld. Lessee shall promptly inform the Director of the existence of any environmental study, evaluation, investigation or results of any environmental testing conducted on the Premises whenever the same becomes known to Lessee, and Lessee shall provide a written copy of the same to the Director within thirty (30) days after the preparation of any such material.

E. Removal of Hazardous Substances Prior to Vacation of Premises: Prior to vacation of the Premises, in addition to all other requirements under this Lease, Lessee shall remove any Hazardous Substances placed on the Premises during the term of this Lease or Lessee's possession of the Premises, and shall demonstrate such removal to the Director's reasonable satisfaction.

F. Reimbursement of City Costs: In addition to any remedy provided above, the City shall be entitled to full reimbursement from Lessee whenever the City incurs any cost resulting from Lessee's violation of any of the terms of this section, including, but not limited to, the cost of clean-up or any other remedial activity, fines, penalties assessed directly against the City, injuries to third persons or other property, and loss of revenue



resulting from an inability to re-lease or market the Premises due to its environmental condition as the result of Lessee's violation of the terms of this Lease (even if such loss of revenue occurs after the expiration or earlier termination of this Lease).

G. Indemnification: In addition to all other indemnities provided in this Lease, and notwithstanding the expiration or earlier termination of this Lease, Lessee agrees to and shall defend (using legal counsel acceptable to the City), indemnify and hold the City free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from the existence or discovery of any Hazardous Substance on the Premises resulting from a violation of the terms of this section, or the migration of any Hazardous Substance from the Premises to other property or into the surrounding environment that is the result of a violation of the terms of this section, whether (a) made, commenced or incurred during the term of this Lease, or (b) made, commenced or incurred after the expiration or termination of this Lease if arising out of an event occurring during the term of this Lease.

15. CITY'S CONTROL OF BUILDINGS, GROUNDS & ACTIVITIES

Notwithstanding any other provision of this Lease, the City, without liability of any kind, may:

A. Physical Appearance: Increase, reduce or change, in any manner and any extent whatsoever, the number, appearance, dimensions, and location of any and every Seattle Center walkway, landscaping element, parking, service area, and building as desired by the City;

B. Traffic & Parking Regulation: Regulate all traffic within and adjacent to the Seattle Center; and restrict or prohibit the parking on City-owned or leased property of motor vehicles owned or operated by Lessee or any of its officers, employees, agents, suppliers, and invitees;

C. Admission Charges: Impose a reasonable charge for admission to the Seattle Center and any of the facilities therein, including parking facilities;

D. Events: Erect, display and remove promotional exhibits and materials and permit special events on the Seattle Center grounds and in or at any or every building and facility thereof;

E. Rules & Regulations: Promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any area of Seattle Center;

F. Hours of Operation: Determine the days and hours that the Seattle Center and the various business operations therein will be open to the public;

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G. Other Businesses & Operations: Change the size, number, type and identity of other businesses and operations being conducted or undertaken at Seattle Center; and authorize other lessees, licensees, and the sponsors of special events at Seattle Center, directly or indirectly, to offer for sale food and beverages, and for sale or rent any merchandise and service, including any that may be identical or similar to that offered by the Lessee;

H. Signage: Place "For Rent" or similar signs in the Premises for thirty (30) days prior to the expiration or termination date of this Lease, whichever is earlier.

I. Interference: Interfere with light, air or view, or the Lessee's operations or use and occupancy of the Premises, either in connection with or as a result of operations by or for City in the construction of any public work or its subsequent use and occupancy, or the repair and maintenance of any City facility or improvement. The City will make a good faith effort, however, to minimize such interference to the extent it is reasonably economical for the City to do so.

16. ASSIGNMENTS, SUBLEASES & OTHER INTEREST TRANSFERS

A. Director's Prior Written Consent Required: Lessee shall not assign, mortgage, or encumber, or otherwise transfer this Lease or sublet the whole or any part of the Premises without the prior written consent of the Director, whose consent may be withheld in the Director's sole discretion. In no event shall an assignment, sublease, or other transfer of the Lease relieve Lessee of any of its obligations under this Lease. Consent to any particular assignment, subletting, or transfer shall not operate as a waiver of the necessity for consent to any subsequent assignment, subletting or transfer.

B. Transferee's Obligations; Documentation: As a condition of the Director's approval of an assignment or transfer, any potential assignee or transferee otherwise acceptable to the Director shall assume, in writing, all of Lessee's obligations under the Lease; and Lessee and such assignee or transferee, shall agree, in writing, to be jointly and severally liable for the performance of all of Lessee's obligations under this Lease. As a condition of the Director's approval of any sublessee otherwise acceptable to the Director, such sublessee shall assume, in writing, all of Lessee's obligations under this Lease as to the subleased portion of the Premises; and Lessee and such sublessee shall agree, in writing, to be jointly and severally liable with Lessee for rent and performance of all of the terms, covenants, and conditions of such approved sublease. Lessee and any assignee, sublessee, or transferee shall remain jointly and severally liable regardless of any (i) agreement that modifies any of the rights or obligations of the parties to this Lease; (ii) stipulation that extends the time within which an obligation under this Lease is to be performed; (iii) waiver of the performance of any obligation under this Lease; or (iv) failure to enforce any obligation under this Lease.

Every proposed sublease, assignment, or other interest-transferring agreement shall be submitted to the Director for review and approval or disapproval after execution



by the proposed subtenant, assignee, or other transferee, and not less than fourteen (14) calendar days prior to the commencement date of the proposed sublessee's, assignee's, or transferee's intended use of any portion of the Premises under such agreement or the assumption of any right or interest in any portion of the Premises or this Lease. Every sublease shall require the sublessee to submit to the Director and Lessee not more than ten (10) days after the end of each month during the term of its sublease and the month after the expiration or earlier termination of such sublease, a written statement identifying the amount of gross receipts generated by such sublessee on and from the portion of the Premises used and occupied by such sublessee during the immediately preceding month.

C. Change of Lessee's Organizational Structure or Ownership Constitutes Assignment: If Lessee is a corporation, the merger, consolidation, or liquidation of the Lessee or any change in the ownership of or power to vote thirty-three and one-third percent (33 1/3) or more of its capital stock, as held as of the date of execution of this Lease, shall be deemed an assignment.

D. Lessee's Authorization to Use Premises Constitutes Assignment or Sublease: If Lessee in any manner permits anyone to occupy all or any portion of the premises for any purpose including but not limited to the conduct of any business or other activity, whether or not business-related, not within the intent of this Lease or any sublease, such permission shall be deemed an assignment or sublease, as deemed appropriate by the Director.

17. EXCUSE & SUSPENSION OF OBLIGATIONS (FORCE MAJEURE)

If a party's performance (other than any monetary obligations) under this Lease is prevented by an unforeseeable act of nature; war or war-like operations; civil commotion; riot; labor dispute including a strike, lockout, or walkout; sabotage; Federal or State regulation or control; or other condition beyond the reasonable control of such party, then performance of such affected obligation shall be suspended (excluding, however, any monetary obligations), but only for the duration of such condition. The existence of more than one (1) such condition on a given day shall result in only a one (1) day extension.

18. DAMAGE OR DESTRUCTION

A. Report of Damage or Destruction: The Lessee shall submit a written report to the Director, in care of the Contracts and Concessions Office, regarding the circumstances of any damage to the Premises or any of the Tenant's improvements thereto, within twenty-four (24) hours after its discovery.

B. Rent Obligation in Event of Damage or Destruction: In the event the Premises are destroyed or damaged by fire or other casualty not occasioned by an act or omission of the Lessee or any of its officers, employees, contractors, agents, invitees, or guests, and such destruction or damage is so extensive as to render such Premises and improvements unusable (either because of the need to rebuild or to clean and refurbish the same) and the Lessee has given timely notice of such destruction or damage as

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provided by this section, Lessee's obligation to pay rent shall be abated until the date that such Premises and improvements are made usable or should have been made usable had the Lessee diligently prosecuted such repair, rebuilding, and restoration work. The unusability of the Premises and the duration of any such rent abatement shall be reasonably determined by the Director and confirmed by one or more notices to Lessee. In the event only a portion of the Premises is damaged or destroyed by fire or other casualty not occasioned by an act or omission of Lessee or any of its officers, employees, contractors, agents, invitees, or guests but the remainder of such Premises and improvements remains usable, as reasonably determined by the Director, and Lessee has given timely notice of such destruction or damage as provided by this section, Lessee shall pay a reduced amount of rent that is proportionate to the extent of the Premises that remains usable for the purposes identified in Section I hereof, which reduced rent amount shall be reasonably determined by the Director and identified by notice to Lessee, and paid by Lessee through the date reasonably specified by the Director in such notice or the later date specified in any subsequent notice.

C. Rebuilding, Repair & Restoration: In the event that insurance proceeds payable to the City will provide sufficient funds to enable the City to rebuild, repair and restore the Premises after their damage or destruction, and neither Lessee nor the City elects to terminate this Lease pursuant to this section, the City shall diligently prosecute such rebuilding, repair, and restoration. Lessee shall replace or repair in a timely manner and at no cost or expense to the City, all damaged or destroyed personal property that, prior to such damage or destruction, had been located on the Premises, and all improvements that Lessee made to the Premises, unless otherwise permitted by the Director. Upon the rebuilding, repair and reconstruction of the Premises, Lessee shall immediately re-occupy the whole of the Premises. The rent abatement or reduction provided pursuant to this section shall be discontinued and the full Base Rent and Adjusted Rent and additional sums specified in pursuant to this Lease shall again be due and payable from and after the date specified in the notice given by the Director. The City shall not be liable to Lessee for damages, compensation or any other sum for inconvenience, loss of business, or disruption arising from any repair to or restoration of any portion of the Premises or the Building in which the Premises are located.

D. Termination Rights in Event of Damage or Destruction:

By Lessee: Notwithstanding any other provision in this Lease to the contrary, in the event that fifty percent (50%) or more of the Premises is damaged or destroyed by fire or other casualty not occasioned by an act or omission of Lessee, its officers, employees, contractors, agents, invitees, or guests, Lessee may terminate this Lease by providing notice thereof to the Director

By City: Notwithstanding any other provision in this Lease to the contrary, in the event that fifty percent (50%) of the Premises is destroyed or is so damaged by fire or other casualty as to be untenable or unusable, or if the City desires to discontinue Lessee's operations because of substantial

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destruction of the Premises or other part of Seattle Center, regardless of whether the Premises are destroyed, damaged, or otherwise, the City may terminate this Lease by providing prior written notice thereof to Lessee.

Notice of Termination: Any notice of termination pursuant to this section shall be provided within sixty (60) days after the occurrence of the damage or destruction and shall specify the effective date of such termination.

19. DEFAULT & BREACH

A. Definition: If Lessee violates or breaches or fails to keep or perform any covenant, term or condition of this Lease, or if Lessee files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Lessee's assets or if Lessee makes an assignment for the benefit of creditors, or if Lessee is adjudicated insolvent, Lessee shall be deemed in default hereunder (a "Default").

B. City's Notice of Default & Breach: If Lessee is in Default, City shall provide written notice to Lessee, specifying the nature of the Default, the reasonable number of days (but not more than thirty (30) days) after the date of the notice within which such Default must be cured to avoid termination, and the City's intention to terminate this Lease if the Default is not corrected within such stated period.

C. Remedies: If Lessee fails to cure any Default within the time specified in the Director's notice, the City may thereafter terminate this Lease without any further proceedings, re-enter the Premises, lease and license others to use said Premises during any portion of the period of use remaining under this Lease had it not been terminated, and receive rent, additional rent and license fees and other sums therefore; Provided, that notwithstanding such termination and/or re-entry, Lessee's liability for the rent and any other sums due under the Lease to be paid to the City hereunder shall not be extinguished, and Lessee shall pay to the City the difference between said rent and any other sums due under the Lease and the sum the City receives (if any) for the use of the Premises by one or more other users during the period beginning on the date Lessee's rights under this Lease are terminated and ending on the scheduled expiration date of this Lease. Such payment shall be made monthly, within fifteen (15) days after the date of the City's invoice to Lessee. Lessee's liability for rent and any other sums due pursuant to this Section shall be subject to the late fees and interest provided for in Section 4 of this Lease. Lessee shall also be liable for and shall reimburse City for any other amount necessary to compensate City for all the detriment proximately caused by Lessee's failure to perform its obligations under this Lease, including but not limited to, any costs or expenses incurred by City in retaking possession of the Premises, maintaining or preserving the Premises after such Default, preparing the Premises for reletting to a new tenant, including repairs or alterations to the Premises for such reletting, leasing commissions, and any other costs necessary or appropriate to relet the Premises, and such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of Washington. If the City re-enters the Premises, City shall have the right, but not the obligation, to remove therefrom all or any part of the

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personal property located therein and may place the same in storage at a public warehouse at the expense and risk of Lessee.

D. Adequate Security: If a petition is filed by or against Lessee under any provision of the Bankruptcy Code or successor act, City reserves the right to require Lessee to post a cash bond with City equal to six (6) months' Base Rent and additional sums to provide City with adequate security for Lessee's performance of its obligations under this Lease.

E. Criteria for Substitute Tenant: The City's obligation to mitigate damages after a default by Lessee under this Lease that results in the City's regaining possession of all or part of the Premises shall be satisfied in full if the City undertakes to lease the Premises to another tenant (a "Substitute Tenant") in accordance with the following criteria:

- (1) The City shall have no obligation to solicit or entertain negotiations with any other prospective tenants for the Premises until the City obtains full and complete possession of the Premises including, without limitation, the final and unappealable legal right to re-let the Premises free of any claim of Lessee.
- (2) The City shall not be obligated to offer the Premises to any prospective tenant when other Premises on the Seattle Center suitable for that prospective tenant's use are currently available, or will be available within the next three months.
- (3) The City shall not be obligated to lease the Premises to a Substitute Tenant for a rental less than the current fair market rental then prevailing for similar comparable facilities in the same market area as the Seattle Center.
- (4) The City shall not be obligated to enter into a new lease under terms and conditions that are unacceptable to the City under the City's then current leasing policies for comparable space at the Seattle Center.
- (5) The City shall not be obligated to enter into a lease with any proposed Substitute Tenant that does not have in the Director's reasonable opinion, sufficient financial resource or operating experience. The City shall not be required to expend any amount of money to alter, remodel, or otherwise make the Premises suitable for use by a Substitute Tenant unless:
 - (a) Lessee pays any such sum to the City in advance of the City's execution of a lease with such Substitute Tenant (which payment shall not be in lieu of any damages or other sums to which the City may be entitled to as a result of Lessee's default under this Lease); or



- (b) The City, in the Director's sole discretion, determines that any such expenditure is financially justified in connection with entering into any lease with such Substitute Tenant.

The City shall not be obligated to enter into a lease with any Substitute Tenant whose use would:

- (c) Disrupt the tenant mix or balance of the Seattle Center;
- (d) Violate any restriction, covenant, or requirements contained in the lease of another tenant of the Seattle Center;
- (e) Adversely affect the reputation of the Seattle Center;
- (f) Be incompatible with the operation of the Seattle Center as a first-class event and cultural community gathering center.

F. Default by City: The City shall not be in default of any obligation to perform under this Lease unless the City fails to perform such obligation within a reasonable time, which time shall not extend more than thirty (30) days after written notice by the Lessee to the Director specifying the particular obligation that the City has failed to perform; *Provided*, however, that if the nature of the City's obligation is such that more than thirty (30) days are required for performance, then the City shall not be in default if the City commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

20. REMEDIES CUMULATIVE

Rights under this Lease are cumulative; failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. Each party shall also have any other remedy given by the law. The use of one remedy shall not be taken to exclude or waive the right to use another.

21. SURRENDER OF PREMISES; HOLDING OVER

A. Surrender & Delivery: Upon the expiration or termination date of this Lease, whichever is earlier, Lessee shall surrender the Premises in a broom clean condition, reasonable wear and tear excepted. Lessee shall promptly deliver to the Director all keys Lessee, and any of its officers, agents, and employees have to the Premises or any other part of the Seattle Center. Immediately following the vacating of the Premises and the surrender of the same to the City, a representative of the Lessee shall inspect the Premises with the Director to determine the condition of the Premises. The results of such inspection shall be summarized by the Director on a Premises inspection report, a copy of which shall be provided to Lessee. If the Director determines that Lessee has failed to surrender the Premises in a broom clean condition the Director shall have the



right to restore the Premises to a broom clean condition at the expense of Lessee. Lessee shall reimburse the City for its costs therefor, including any administrative costs.

B. Removal of Lessee's Property: Prior to the expiration date of this Lease, or in the event this Lease is terminated, within fifteen (15) days after the termination date, whichever is earlier, Lessee shall remove, at its sole expense, all trade equipment and personal property owned or installed by Lessee in, on, or from the Premises, unless the Director agrees in writing that any requested items may stay. Lessee shall take due care to not injure or damage the Premises, and shall make such repairs to the Premises as shall be necessary to restore the same to their condition as of the commencement date of this Lease, ordinary wear and tear and improvements, additions, and alterations, approved by the City excepted.

C. Storage of Lessee's Property: In the event Lessee fails to remove trade equipment and personal property owned or installed by Lessee by the expiration date or sooner termination date, the City may, but shall not be required to remove such material from the Premises and store the same, all at Lessee's expense; and in the event the City removes or arranges for the storage of such material, Lessee shall reimburse the City for its costs therefor, including any restoration and administrative costs.

D. Hold-over Use & Occupancy of Premises: In the event Lessee, with the Director's consent, holds over after the expiration or sooner termination of the Lease Term, the resulting use and occupancy shall be on a monthly basis, during which time Lessee shall be bound by all of the provisions of this Lease other than the amount of the monthly Adjusted Rent, which amount shall be the greater of the amount charged for the month immediately preceding the expiration or termination date, whichever is earlier, or the fair market value for the Premises. If, however, Lessee holds over without the Director's consent, after the expiration or sooner termination of the Lease Term, whether by failing to remove its trade equipment or personal property or otherwise, Lessee shall pay to the City, as damages twice the amount of (a) the Rent and additional sums due the month prior to expiration or sooner termination of the Lease Term or (b) the fair market rent and additional sums due the month prior to expiration or sooner termination, whichever is higher, and shall be bound by all of the other provisions of this Lease. If Lessee fails to surrender the Premises upon the expiration or sooner termination of this Lease without the Director's consent, Lessee shall indemnify, defend, and hold harmless the City from all losses, damages, liabilities, and expenses resulting from such failure, including without limiting the generality of the foregoing, any claims made by any succeeding tenant arising out of such failure.

E. No Claim for Removal: In no event shall Lessee make any claim or demand upon the City nor shall the City be liable for any inconvenience, annoyance, disturbance, or loss of business or any other damage suffered by the Lessee arising out of removal operations under Subsections 21 (b) and (c) hereof.

22. NOTICES



All notices from either party to the other shall be in writing and delivered or mailed, postage prepaid, to the intended recipient at the address specified on the signature page of this Lease, or to such other address as may be specified, from time to time, by either party, by notice to the other party.

23. NO RELATIONSHIP ESTABLISHED

The City shall in no event be construed to be a partner, associate, or joint venturer of the Lessee, or any party associated with the Lessee. The Lessee is not an agent of City for any purpose whatsoever. The Lessee shall not create any obligation or responsibility on behalf of the City or bind the City in any manner.

24. AUTHORITY OF "DIRECTOR"

No action of the Director pursuant to or in implementation of this Lease shall constitute any official action by any other City department or official that may be required by law, ordinance, rule or regulation before Lessee may rightfully commence, suspend, enlarge, or terminate any particular undertaking or may obtain or exercise any particular right or privilege under this Lease. Any approval, consent or permission required of the Director by this Lease may be granted, conditioned or withheld by the Director in the exercise of such official's sole discretion.

25. AMENDMENTS

No modification or amendment of the terms hereof shall be effective unless in writing and signed by authorized representative of each of the parties hereto.

26. NO WAIVER

Nothing other than a written document signed by the Director and specifically declaring a City intent to waive a particular breach or default by Lessee shall constitute a waiver of such breach or default. No such document shall waive Lessee's failure to fully comply with any term or condition of this Lease not specifically referenced therein, irrespective of any knowledge any City officer or employee may have of such breach, default, or noncompliance. No waiver by either party shall be construed to be, or operate as, a waiver of any subsequent default in full performance of any provision of this Lease. The payment or acceptance of any Rent, other sums due, or other compensation, whether after a default or from a sublessee or assignee, shall not be deemed to constitute consent to or acceptance of such default or acceptance of defective or incomplete performance in the future or any such subtenancy or assignment.

27. USE OF LANGUAGE

Terms used in the neuter gender include the masculine and feminine; and terms used in the singular or plural include the other, as the context may require.



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28. CAPTIONS

The titles of sections are for convenience only and do not define or limit the contents.

29. INVALIDITY OF PARTICULAR PROVISIONS

Should any term, provision, condition, or other portion of this Lease or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of this Lease or the application of such term or provision to person or circumstances other than those to which it is held invalid or unenforceable shall not be affected hereby and shall continue in full force and effect.

30. GOVERNING LAW & VENUE

This Lease shall be interpreted and construed using Washington Law. The venue for any action under this Lease shall be in the Superior Court of the State of Washington for King County.

31. BINDING EFFECT

The provision, covenants, and conditions contained in this Lease apply to bind the parties, their legal heirs, representatives, successors, and assigns.

32. INSTALLATION OR INTEGRATION OF VISUAL ART WORKS PROHIBITED WITHOUT DIRECTOR'S CONSENT

A. The City reserves to and for itself the right to approve or disapprove of the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration. Lessee shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without the prior, express, written consent of the Director. The Director's consent to the installation of any such art work may be granted, granted upon one or more conditions, or withheld in the Director's discretion; Provided, however, that Director's consent to the installation by or for Lessee of any such art work shall not be required under the following three (3) circumstances:

- (1) If such art work (a) weighs less than fifty (50) pounds; and (b) is of a size and has such dimensions and material composition that makes its passage through an open 32" x 78" or larger doorway a simple and easy maneuver; and (c) is to be installed on the floor, a piece of furniture, or similar surface without further anchoring of any kind or nature, or on a wall using no more than two (2) simple picture hooks and wire; all so that the easy removability from the Premises of such art work without its destruction,



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distortion, mutilation or other modification by reason of such removal is undeniable; or

(2) If Lessee delivers to City a waiver appropriately executed by the art work creator, for the benefit of the City and its successors and assigns as the owner of the Premises, of the creator's right of integrity regarding such art work, in a form of waiver that satisfies both City and the requirements of 17 U.S.C. §106A(e), as the same now exists or is hereafter modified; or

(3) If the City executes with the creator of a work of visual art to be installed in the Premises a consent agreement of the type contemplated by 17 U.S.C. §113(d)(1), as the same now exists or is hereafter amended, and in the form and manner specified by City.

B. In the event the creator of any work of visual art installed in the Premises by or for Lessee has not executed a waiver, or such creator and the City have not executed a consent agreement, each as described herein, Lessee shall ensure that, prior to removing or allowing the removal from the Premises of any such art work, such creator is given both notice, as contemplated in 17 U.S.C. §113(d)(2), of the intended removal of such art work, and the time required by that statutory provision to respond to such notice, and that Lessee takes whatever other action(s) may be required by such legislation to ensure that no claim, action or suit alleging a violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended, and arising out of any act or omission of or for Lessee or any of its officers, employees, or agents, is filed or lodged against the City in its capacity as the Premises owner.

C. Lessee's Indemnification of the City Against Liability under Visual Artists Rights Act of 1990. Lessee shall protect, defend, and hold the City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of this section; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Lessee or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether the City or any other person employed by the City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

33. ATTORNEYS FEES

If an action is brought to enforce the terms of the Lease, each party agrees to bear its own attorneys' fees and costs.

34. ACKNOWLEDGEMENT OF NEGOTIATED LEASE

The parties to this Lease acknowledge that it is a negotiated lease, that they have had the opportunity to have the Lease reviewed by their respective legal counsel, and that



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the terms and conditions of this Lease are not to be construed against any party on the basis of such party's draftsmanship thereof.

35. EXHIBITS

The following exhibits are made a part of this Lease:

Exhibit A: Premises Floor Plan/Map

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year indicated below:

LESSEE:

POTTERY NORTHWEST

By _____
Jean Griffith, President

Board of Directors

LESSOR:

THE CITY OF SEATTLE

By _____
Virginia Anderson, Director

Seattle Center Department

BUSINESS ADDRESSES FOR NOTICES

LESSEE:
Director

Pottery Northwest
226 First Avenue N
Seattle, WA 98109
PHONE NO.: 206 285-4421

LESSOR:
Manager, Contracts & Concessions

Seattle Center Department
305 Harrison, Room 322
Seattle, WA 98109
PHONE NO.: 206-684-7114

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STATE OF WASHINGTON)

) Ss (Acknowledgment for Lessee, Pottery Northwest)

COUNTY OF KING)

On this _____ day of _____, 20____, before me,
a Notary Public in and for the State of _____, duly
commissioned and sworn, personally appeared

Jean Griffith, to me known to be the President of POTTERY NORTHWEST Board of Directors, the entity that executed the foregoing Lease as Lessee; and acknowledged to me that she signed the same as the free and voluntary act and deed for said entity, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument for said entity.

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

WITNESS MY HAND AND OFFICIAL SEAL the day and year in this certificate above written.

Signature

(Print or Type Name)

NOTARY PUBLIC in and for the State of
Washington,

Residing at

My commission expires:

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Pottery Northwest Agreement May 14, 2003



STATE OF WASHINGTON)

) Ss (Acknowledgment for Lessor, City of Seattle)

COUNTY OF KING)

On this _____ day of _____, 20____, before me,
a Notary Public in and for the State of _____, duly
commissioned _____ and _____ sworn, _____ personally appeared

Virginia Anderson, to me known to be the Seattle Center Director of the CITY OF
SEATTLE, the corporation that executed the foregoing Lease as Lessor; and
acknowledged to me that she signed the same as the free and voluntary act and deed for
said entity, for the the purposes therein mentioned, and on oath stated that she was
authorized to execute said instrument for said entity.

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

WITNESS MY HAND AND OFFICIAL SEAL the day and year in this certificate
above written.

Signature

(Print or Type Name)
NOTARY PUBLIC in and for the State of
Washington,

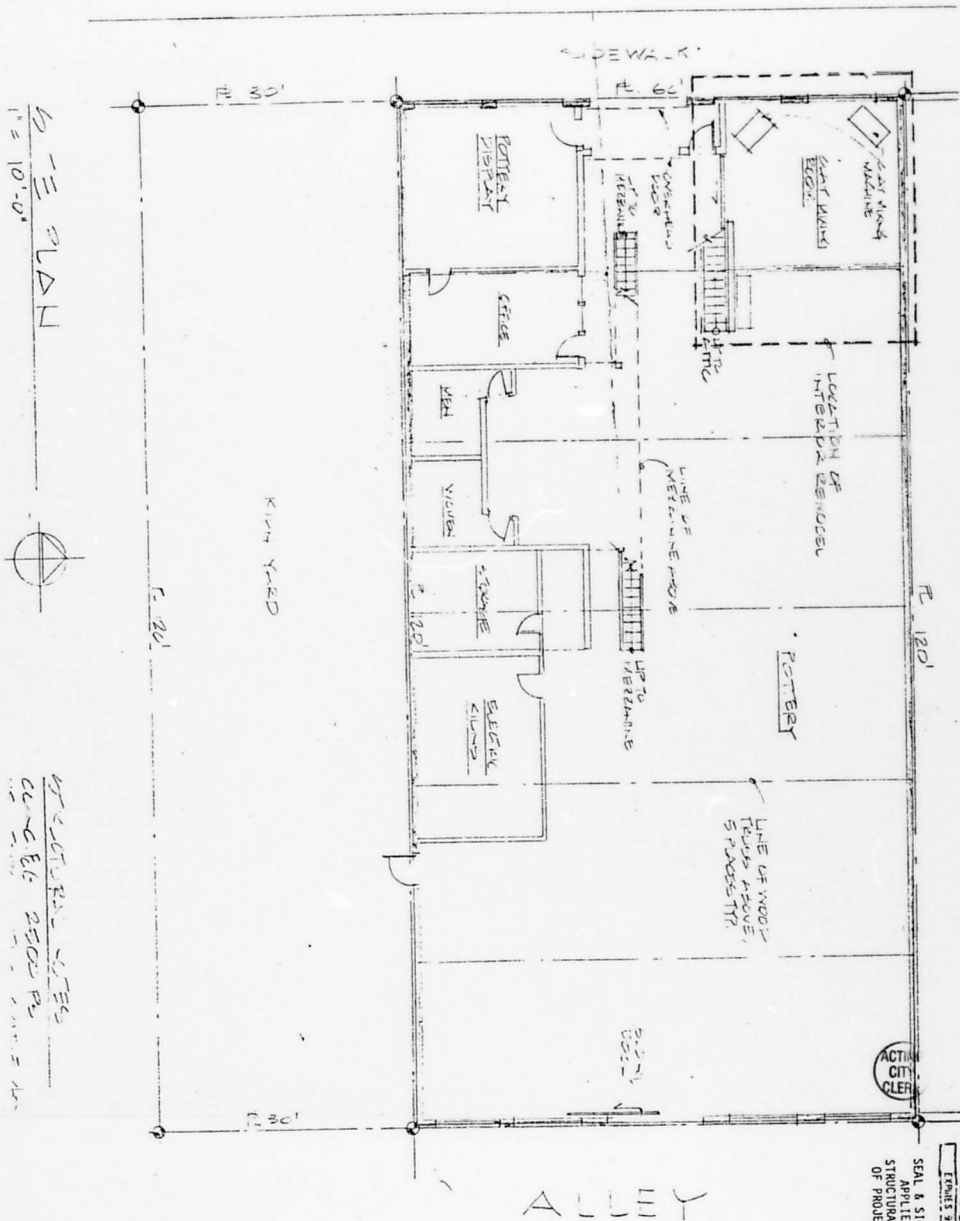
Residing at

My commission expires:

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EXHIBIT A

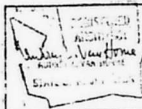


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SEAL & SIGNATURE
APPLIES TO
STRUCTURAL ASPECTS
OF PROJECT ONLY

HEET TITLE
OVER SHEET

PROJECT TITLE
CLAY MIXING ROOM
POTTERY NORTHWEST



VAN HORNE
architects
VAN HORNE



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

May 27, 2003

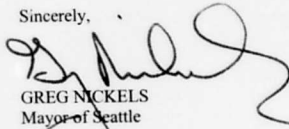
Honorable Peter Steinbrueck
President
Seattle City Council
Municipal Building, 11th Floor

Dear Council President Steinbrueck:

The attached ordinance authorizes a lease agreement with Pottery Northwest, a Washington nonprofit corporation that has been a resident tenant at Seattle Center for twenty years. The Pottery Northwest space is located on the west edge of the campus along First Avenue North, south of KeyArena and adjacent to the First Avenue North Parking Garage. Pottery Northwest provides pottery classes open to the general public, as well as workshops and presentations by regionally and nationally recognized potters. In addition, Pottery Northwest provides workspace for potters and provides a gallery for the display and sale of pottery objects. After operating on a month-to-month basis for a number of years, Pottery Northwest has agreed to a lease through December 31, 2007, with options for three additional two-year terms. This new lease provides a increase in rent to the City, and gives Pottery Northwest the opportunity to offset up to 25% of its annual rent with services that benefit the City. With this legislation, Pottery Northwest will continue to add to the cultural and artistic activities offered to the public at Seattle Center.

Thank you for your consideration of this legislation. Should you have questions, please contact Helen Welborn at 233-7884.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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600 Fourth Avenue, 12th Floor, Seattle, WA 98104-1873

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E-mail: mayors.office@ci.seattle.wa.us

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



Ned Dunn:
May 22, 2003:
Pottery Northwest Lease Agreement:
Version #: 1

Form revised April 22, 2003

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Center	Ned Dunn, 684-7212 Robert Nellams 684-7334 Angela Tinker, Law, 684-8239	Helen Welborn, 233-7884

Legislation Title:

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of a lease agreement with Pottery Northwest, Inc., for use of space on the Seattle Center campus.

• **Summary of the Legislation:**

This legislation authorizes a lease agreement with Pottery Northwest, a Washington nonprofit corporation, for use of space on the Seattle Center campus. The term of the lease is four and one-half years, from July 1, 2003 to December 31, 2007, with the option for three additional two-year terms. Under the terms of the lease, Pottery Northwest shall use the leased space (1) to provide pottery classes open to the general public; (2) to provide workspace for potters; and (3) to provide a gallery for the display and sale of pottery objects. Base rent increases from the current annual amount of \$14,400 to \$28,800 (\$14,400 for the initial half-year). Beginning in 2005, base rent is increased by a CPI adjustment. In addition to annual CPI adjustments, base rent increases by \$2,500 for each two-year option period. These increases would take effect in 2008, 2010, and 2012. Pottery Northwest has the opportunity to offset up to 25% of its annual rent with services that benefit the City, with the Seattle Center Director making the final determination as to the value of such services and whether to accept such services as an offset to rent.

- **Background:** (Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):

Pottery Northwest has leased space from Seattle Center since January 1983. The original lease agreement was authorized by Ordinance 110817 and extended through December 1990. Subsequently, Ordinance 117044 authorized a lease period from January 1991 through December 1995. Since January 1996, Pottery Northwest has leased space on a month-to-month basis under the "holding over" provisions in the 1991 lease. The Pottery Northwest space is located on the west edge of the campus along First Avenue North, south of KeyArena and adjacent to the First Avenue North Parking Garage. For the last twenty years Pottery Northwest has added to the cultural and artistic activities at Seattle Center.

- Please check one of the following:

Ned Dunn:
May 22, 2003:
Pottery Northwest Lease Agreement:
Version #: 1

 This legislation does not have any financial implications. (Stop here and delete the remainder of this document prior to saving and printing.)

 X **This legislation has financial implications.** (Please complete all relevant sections that follow.)

Appropriations (in \$1,000s): (Please only reflect the dollar amount actually appropriated by this legislation.)

Fund Name and Number	Department	Budget Control Level*	2003 Appropriation	2004 Anticipated Appropriation
			None	None
TOTAL				

* This is line of business for operating budgets, and program or project for capital improvements

Notes:

Anticipated Revenue/Reimbursement (in \$1,000s) Resulting From This Legislation:

Fund Name and Number	Department	Revenue Source	2003 Revenue	2004 Revenue
Seattle Center Operating Fund (11410)	Seattle Center	Rent payments from Pottery Northwest	\$14,400	\$28,800
TOTAL			\$14,400	\$28,800

Notes: Under the lease, Pottery Northwest will pay \$14,400 in rent for the second half of 2003. In the first half of 2003, Pottery Northwest will pay rent of \$7,116 under the terms of the previous agreement. As noted above, under the new agreement, Pottery Northwest has the opportunity to offset up to 25% of its annual rent with services that benefit the City. This provision is in keeping with the Seattle Center Director's authority under SMC 17.16.030 to accept in-kind contributions of services for the City's benefit to offset office space rental payments due from non-profit organizations. Under the Pottery Northwest Lease Agreement, the Seattle Center Director will make the final determination as to the value of such services and whether to accept such services as an offset to rent. Seattle Center's 2003 Adopted-2004 Endorsed budget assumes the previous lease rates. The new rates provide revenue increases of approximately \$7,000 in 2003 and \$14,000 in 2004. Additional expenditure authority for this additional revenue is not needed, however.

Ned Dunn:
May 22, 2003:
Pottery Northwest Lease Agreement:
Version #: 1

Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE Impact:

Position Title*	Part-Time/ Full Time	2003 Positions	2003 FTE	2004 Positions**	2004 FTE**
None					
None					
TOTAL					

- **Fund Name and Number:** _____
- **Department:** _____

* List each position separately

** 2004 positions and FTE are total 2004 position changes resulting from this legislation, not incremental changes from 2003.

- **Do positions sunset in the future?** (If yes, identify sunset date): _____

Spending/Cash Flow (in \$1,000s): (Please complete this section only in those cases where part or all of the funds will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects).)

Fund Name and Number	Department	Budget Control Level*	2003 Expenditures	2004 Anticipated Expenditures
TOTAL				

* This is line of business for operating budgets, and program or project for capital improvements

Notes:

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

Without legislation authorizing the lease, rent payment continue at the current, lower rate (a difference of \$14,400 on an annual basis).

Ned Dunn.
May 22, 2003:
Pottery Northwest Lease Agreement:
Version #: 1

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

In theory, Seattle Center could find another tenant for the Pottery Northwest space. However there would be significant capital costs to transform the space from a pottery space to another use.

- **Is the legislation subject to public hearing requirements?** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

No.

- **Other Issues** *(including long-term implications of the legislation):*

Pottery Northwest has been a Seattle Center resident organization for twenty years. Both parties would like to see Pottery Northwest remain at Seattle Center.

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FILED
CITY OF SEATTLE
2008 MAR 15 AM 11:13
CITY CLERK

ord. 171214

AGREEMENT BETWEEN

THE CITY OF SEATTLE

AND

POTTERY NORTHWEST, INC.

REGARDING LEASING A SEATTLE CENTER FACILITY

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Table of Contents

Table of Contents	1
1. PREMISES	3
2. LEASE TERM	4
3. RENT	4
4. LATE CHARGE; INTEREST	6
5. WAIVER; INDEMNIFICATION	6
6. INSURANCE	7
7. COVENANTS REGARDING OPERATION OF LESSEE'S BUSINESS	10
8. UTILITY SERVICES	11
9. PARKING	12
10. SIGNAGE, ADVERTISING & PUBLICITY	12
11. MAINTENANCE, CLEANING & REPAIR	13
12. CITY ACCESS TO, & INSPECTION, REPAIR & IMPROVEMENT OF PREMISES & OTHER PROPERTY	14
13. COMPLIANCE WITH LAW	15
14. ENVIRONMENTAL STANDARDS	16
15. CITY'S CONTROL OF BUILDINGS, GROUNDS & ACTIVITIES	18
16. ASSIGNMENTS, SUBLEASES & OTHER INTEREST TRANSFERS	19
17. EXCUSE & SUSPENSION OF OBLIGATIONS (FORCE MAJEURE)	20
18. DAMAGE OR DESTRUCTION	20
19. DEFAULT & BREACH	22
20. REMEDIES CUMULATIVE	24
21. SURRENDER OF PREMISES; HOLDING OVER	24
22. NOTICES	26
23. NO RELATIONSHIP ESTABLISHED	26
24. AUTHORITY OF "DIRECTOR"	26
25. AMENDMENTS	26
26. NO WAIVER	26
27. USE OF LANGUAGE	27
28. CAPTIONS	27
29. INVALIDITY OF PARTICULAR PROVISIONS	27
30. GOVERNING LAW & VENUE	27
31. BINDING EFFECT	27
32. INSTALLATION OR INTEGRATION OF VISUAL ART WORKS PROHIBITED WITHOUT DIRECTOR'S CONSENT	27
33. ATTORNEYS FEES	29
34. ACKNOWLEDGEMENT OF NEGOTIATED LEASE	29
35. EXHIBITS	29

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**LEASE AGREEMENT
BETWEEN THE CITY OF SEATTLE AND
POTTERY NORTHWEST, INC.**

THIS LEASE is entered into by THE CITY OF SEATTLE ("City"), a municipal corporation of the State of Washington, acting by and through the Director of the Seattle Center Department ("Director"), and POTTERY NORTHWEST, INC., ("Lessee"), a Washington non-profit corporation.

In consideration of their mutual promises, the parties mutually agree as follows:

1. PREMISES

A. Grant: The City hereby leases to Lessee those certain premises (the "Premises") consisting of approximately 10,800 square feet, in a portion of the building located at 226 First Avenue North, Seattle, WA, legally described as Lot Eleven (11), Block Thirty (30), D. T. Denny's Plan of North Seattle, according to plat recorded in Volume One of Plats, Page 41, Records of King County, Washington.

The site plan depicting the Premises is attached to this Lease as Exhibit A.

B. Condition: City shall deliver and Lessee accepts the Premises "AS IS." Tenant shall undertake no tenant improvements without first obtaining written permission from the Director, whose permission shall be given or withheld in her/his sole discretion.

C. Permitted Use: Lessee shall use the Premises only for the following purposes:

(i) to provide regular pottery classes open to the general public, and presentations, workshops, master classes and the like by regionally or nationally recognized potters;

(ii) to provide a work-space for potters, including but not limited to facilities and equipment for clay making, the wheel-throwing and hand-building of pots and other clay objects, and the glazing and firing of such objects, which facilities and equipment shall be available for use by potters on a request basis; and

(iii) to provide a gallery for the display and sale of pottery objects,

D. Assumption of Risk: The placement and storage of personal property in the Premises or any other Seattle Center facility shall be the responsibility, and at the sole risk, of the Lessee.

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2. LEASE TERM

A. Initial Term. The Lease Term shall be four and ½ (4 1/2) years, (the "Initial Term") beginning on July 1, 2003, and ending on December 31, 2007 (the "Expiration Date"), unless the Lease Term is extended or sooner terminated as provided herein.

B. Lessee's Opportunity to Extend the Lease Term. Provided at any time before or after notice is required under this Subsection 2.b. (i) Lessee has not defaulted in any of its obligations under the Lease, or (ii) Lessee has defaulted but has cured all such defaults to the satisfaction of the Director, this Lease Term may be extended every two years for a total of three additional two (2)-year periods (each two year period an "Extended Term") upon the terms and conditions contained in the Lease. In order to be eligible for any Extended Term, Lessee must notify the City, in writing, of its desire for an Extended Term not later than six (6) months prior to expiration of the Initial Term and not later than six (6) months prior to expiration of each Extended Term, if applicable.

3. RENT

A. Rent Defined:

Base Rent: The Base Rent due the initial partial calendar year of the Lease Term (i.e. July 1, 2003 - December 31, 2003) is \$14,400. The Base Rent due the first full calendar year of the Lease Term (i.e. January 1, 2004 - December 31, 2004) is \$28,800.

B. Additional Rent: In years 2008, 2010, and 2012, Lessee shall pay as "Additional Rent" the sum of \$2,500.

C. Adjusted Rent: The Base Rent (with CPI adjustment) plus the Additional Rent, if any is then due, shall be the "Adjusted Rent." In years where no Additional Rent is due, the Base Rent adjusted for CPI shall also be called the "Adjusted Rent."

D. CPI Increase: The Base Rent and Adjusted Rent shall be increased each January 1st commencing January 1, 2005, during the term hereof by the percentage increase (if any) in the Consumer Price Index for All Urban Consumers ("CPI-U" / 1982-84 = 100) Seattle-Tacoma-Bremerton, WA Area as published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor, that occurred during the immediately preceding calendar year; Provided, that in the event of a change in the index base of (1982-84 = 100) or other modification of such index, the City shall apply whatever conversion factors are necessary to establish an adjusted CPI-U that produces the percentage increase in the CPI-U for each such annual period that would have been produced had no change been made in such index by its publisher; and in the event such index is discontinued, the Director shall select and use for such rent adjustment purpose a similar index that reflects consumer price changes. In no case shall the value of the annual CPI-U percentage adjustment applied to Monthly Base Rent or Monthly Adjusted Rent be less than zero (0).

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The following table illustrates the application of the CPI:

Contract Year	Column 1 Previous Years Adjusted Rent	Column 2 Multiplied by CPI**	Column 3 Plus Add'l Rent	Column 4 Adjusted Rent (Equals=column n 2 plus column 3)(i.e. years "Total")
2003	\$14,400	N/A	\$0	\$14,400
2004	\$28,800 *	N/A	\$0	\$28,800
2005	2004 Total	\$+	\$0	\$=
2006	2005 Total	\$+	\$0	\$=
2007	2006 Total	\$+	\$0	\$=
2008	2007 Total	\$+	\$2,500	\$=
2009	2008 Total	\$+	\$0	\$=
2010	2009 Total	\$+	\$2,500	\$=
2011	2010 Total	\$+	\$0	\$=
2012	2011 Total	\$+	\$2,500	\$=
2013	2012 Total	\$+	\$0	\$=

* In this one instance only, the number in Column 1 (\$28,800) does not represent the previous years Adjusted Rent because the previous "year" of the Lease was a six month period.

** If CPI is ever zero, ignore Column 2.; in any such instance Adjusted Rent shall equal Column 1 plus Column 3.

To summarize, in order to determine Adjusted Rent due in any particular year, the Parties will

- (1) take the amount in column 1,
- (2) multiply it by the CPI index (such product would appear in column 2,
- (3) add any Additional Rent due that year (see column 3) to arrive at Adjusted Rent due.

C. Lessee's opportunity to offset Base Rent with Services: Twenty five percent (25%) of the annual Base and Adjusted Rent due under this Lease shall be eligible for offset with services. To be eligible for the offset, Lessee must provide a service or services of benefit to the City. If Lessee desires to take advantage of this opportunity in any given month, then Lessee must notify the Director in writing as provided in Section 22, four weeks prior to the first of the month in which the proposed offsetting services would be rendered. Such notice shall list the proposed services to be rendered and the proposed value of such services, supported by an itemized accounting of time, labor rates, and materials, with corresponding dollar values. The Director may propose an

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alternate valuation of the proposed services. The Director will make the final determination in his/her sole discretion whether the City will accept or reject Lessee's proposed services as an offset and will so notify Lessee in writing. If accepted, the value of the services performed will be credited to the next monthly payment due of Base Rent or Adjusted Rent after Lessee has completed performance of the services.

D. Time and Manner of Payment: Lessee shall pay to City without notice or demand, in lawful money of the United States (a) one-twelfth (1/12th) of the annual Rent due, Base Rent in year one and Adjusted Rent thereafter, less any offset that has been approved in writing by the Director, in advance of the first day of each month and (b) any additional sums due, without offset, as and when specified elsewhere in this Lease, but if not specified, then within ten (10) days after demand.

If City notifies Lessee of the amount that the Rent is annually increased for the CPI adjustment after Lessee has already made payment(s) for the adjusted period(s), then Lessee shall remit the difference owing and retroactively due within seven (7) days after the date of the City's notice of the amount of each such annual increase. Lessee shall thereafter pay the increased Adjusted Rent when due as specified in this Lease.

E. Place of Payment: All payments shall be delivered to The City of Seattle, Seattle Center Fiscal Services & Accounting, 305 West Harrison Street, Seattle, Washington, 98109, or to such other address as the Director shall specify by notice to Lessee.

4. LATE CHARGE; INTEREST.

If Lessee fails to pay any Base Rent or additional sums due under this Lease within five (5) days after the due date, a service charge of Fifty Dollars (\$50.00), or such larger sum as may be established by ordinance, shall be assessed for each month or portion of a month that the delinquency continues. Such assessment(s) is/are immediately due and payable. In addition, interest on such delinquent amount(s) shall accrue at the rate of one and one-half percent (1 1/2 %) per month from the date due until paid. In the event any check for payment is returned for insufficient funds, Lessee shall pay an administrative charge of \$20.00. If Lessee defaults in making any payment of Base Rent or Adjusted Rent or other sums due, City shall have the right to require that subsequent Base Rent or Adjusted Rent or other sums payments be made by cashiers or certified check.

5. WAIVER; INDEMNIFICATION

A. Lessee's Indemnification. Except as otherwise provided in this section, Lessee shall indemnify, defend (using legal counsel acceptable to City) and save City, its officers, agents, and employees harmless from any and all claims, suits, losses, damages, fines, penalties, liabilities and expenses arising out of or in connection with (i) Lessee's occupation, use or improvement of the Premises, or that of any of its officers, employees, agents, invitees, licensees, guests, or contractors, or (ii) Lessee's breach of its obligations hereunder or violation of law, or (iii) any act or omission of Lessee or any

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subtenant, licensee, assignee, or concessionaire of Lessee, or of any officer, agent, employee, guest, or invitee of any of the same in or about the Premises. Lessee agrees that the foregoing indemnity specifically covers actions brought by its own employees. The foregoing indemnity is specifically and expressly intended to constitute a waiver of Lessee's immunity under Washington's Industrial Insurance Act, RCW Title 51, as to the City only, and shall survive the termination or expiration of this Lease. Lessee shall promptly notify City of casualties or accidents occurring in or about the Premises. CITY AND LESSEE ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF THIS LEASE WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

B. Release of Claims. Lessee hereby waives and releases all claims against City for any losses or other damages sustained by Lessee resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of building equipment; any failure to make repairs; any defect, failure, surge in, or interruption of building facilities or services; broken glass; water leakage; the collapse of any building component; or any act or omission of any other occupants of the building.

C. Limitation of Lessee's Indemnification. In compliance with RCW 4.24.115 as in effect on the date of this Lease, all provisions of this Lease pursuant to which City or Lessee (the "Indemnitor") agrees to indemnify the other (the "Indemnitee") against liability for damages arising out of bodily injury to persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, road, or other structure, project, development, or improvement attached to real estate, including the building, (i) shall not apply to damages caused by or resulting from the sole negligence of the Indemnitee, its agents or employees, and (ii) to the extent caused by or resulting from the concurrent negligence of (a) the Indemnitee or the Indemnitee's agents or employees, and (b) the Indemnitor or the Indemnitor's agents or employees, shall apply only to the extent of the Indemnitor's negligence; PROVIDED, HOWEVER, the limitations on indemnity set forth in this section shall automatically and without further act by either City or Lessee be deemed amended so as to remove any of the restrictions contained in this section no longer required by then applicable law

6. INSURANCE

The Lessee shall secure and maintain in full force and effect at all times during the Term of this Lease, at no expense to City, a policy or policies of insurance as enumerated below.

A. A policy of Commercial General Liability Insurance, written on an insurance industry standard occurrence form (CG 00 01) or equivalent, including all the usual coverages known as:

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual Liability

- Independent Contractors Liability
- Stop Gap/Employers Contingent Liability
- Liquor Liability/Host Liquor Liability (as applicable)
- Fire Damage Legal Liability
- Elevator & Hoist Liability (as applicable)

Such policy (ies) must provide the following minimum limit:

Bodily Injury and Property Damage -

- \$ 2,000,000 General Aggregate
- \$ 2,000,000 Products & Completed Operations Aggregate
- \$ 1,000,000 Personal & Advertising Injury
- \$ 1,000,000 Each Occurrence
- \$ 100,000 Fire Damage

Stop Gap Employers Liability

- \$ 1,000,000 Each Accident
- \$ 1,000,000 Disease - Policy Limit
- \$ 1,000,000 Disease - Each Employee

Any deductible or self-insured retention must be disclosed and is subject to approval by the City's Risk Manager. The cost of any claim payments falling within the deductible shall be the responsibility of the Lessee.

B. A policy of Business Automobile Liability (if applicable), including coverage for owned, non-owned, leased or hired vehicles written on an insurance industry standard form (CA 00 01) or equivalent.

Such policy (ies) must provide the following minimum limit:

Bodily Injury and Property Damage -

- \$ 1,000,000 Per Accident

C. A policy of Worker's Compensation. As respects Workers' Compensation insurance in the state of Washington, the Lessee shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. If the Lessee is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Lessee shall so certify by providing a copy of the state Certificate of Self-Insurance, and setting forth the limits of any policy of excess insurance covering its employees.

D. A policy of Property Insurance covering its furniture, fixtures, equipment and inventory and all improvements which it makes to the Premises in an amount equal to replacement cost thereof, against (a) loss from the perils of fire, and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (CP 10 30), (b) Loss or damage from water damage, or sprinkler systems now or hereafter installed in on the premises; (c) Loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage; (d) Business Interruption or Extra Expense, with sufficient coverage to provide for the payment of rent and other fixed costs during any interruption of Lessee's business because of fire or other cause.

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E. Additional Insured and Changes of Coverage and Limits: Such insurance, as provided under items (A), (B) and (D) above, shall be endorsed to include the City, its officers, elected officials, employees, agents and volunteers as additional insured, and shall not be reduced or canceled without forty-five (45) days prior written notice to the City. In addition, Lessee's insurance shall be primary, as respects the City, and any other insurance maintained by the City shall be excess and not contributing insurance with the Lessee's insurance.

F. Coverage and/or limits may be altered or increased as necessary, to reflect type of or exposure to risk. City shall have the right to periodically review the appropriateness of such limits in view of inflation and/or changing industry conditions and to require an increase in such limits upon ninety (90) days prior written notice.

G. Evidence of Insurance: The following documents must be provided as evidence of insurance coverage:

- A copy of the policy's declarations pages, showing the Insuring Company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements.
- A copy of the endorsement naming The City as an Additional Insured, showing the policy number, and signed by an authorized representative of the insurance company on Form CG2026 (ISO) or equivalent.
- A copy of the "Endorsements Form List" to the policy or policies showing endorsements issued on the policy, and including any company-specific or manuscript endorsements.
- A copy of an endorsement stating that the coverages provided by this policy to the City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days prior written notice to the City.
- A copy of A "Separation of Insureds" or "Severability of Interests" clause, indicating essentially that, except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claim is made or suit is brought (Commercial General Liability & Business Automobile Liability Insurance).

H. All policies shall be subject to approval by the City's Risk Manager as to company (must be rated A-: VII or higher in the A.M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as a surplus line by a Washington Surplus lines broker), form and coverage, and primary to all other insurance.

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I. If Lessee fails to maintain such insurance, City may do so, and Lessee shall reimburse City for the full expense thereof upon demand. Lessee shall not keep or use in or about the Premises any article, which is prohibited by City's insurance policy. Lessee shall pay immediately any increase in City's premiums for insurance during the term of this Lease that results from Lessee's use of the Premises.

J. Waiver of Subrogation. Neither City nor Lessee shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or tangible personal property of the other occurring in or about the Premises or Building, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees, if such loss or damage is covered by insurance benefiting the party suffering such loss or damage or was required under the terms of this Lease to be covered by insurance procured by the party suffering the loss.

K. Self-Insurance: Should Lessee be self-insured, under items (A) or (B) above, a letter from the Corporate Risk Manager, or appropriate Finance Officer, is acceptable - stipulating if actuarially funded and fund limits; plus any excess declaration pages to meet the contract requirements. Further, this letter should advise how Lessee would protect and defend the City of Seattle as an Additional Insured in their Self-Insured layer, and include claims handling directions in the event of a claim.

7. COVENANTS REGARDING OPERATION OF LESSEE'S BUSINESS

A. Personnel: Lessee shall employ courteous, competent, and efficient help in such numbers, skills, and experience as to properly conduct its activities on the Premises

B. Business Name: Lessee shall not change the name by which it carries on its business without the written consent of the Director whose consent shall not be unreasonably withheld.

C. Fixtures, Furnishings, and Trade Equipment: All fixtures, furnishings, and trade equipment installed in the Gallery shall be of high quality, of a modern type, and either new or completely reconditioned.

D. Schedule of Fees and Services: Lessee shall at all times conspicuously display at or near the main entrance to the Premises a schedule of fees charged for services of Lessee, and if Lessee should choose to alter its fees, such alteration shall be preceded by written notice one week in advance of the effective date thereof to the Director and notice conspicuously displayed to the public at or near the main entrance of the Premises for at least one week prior to the effective date of the charging of such fee or the variation thereof.

E. No Nuisances or Objectionable Activity: Lessee shall not permit any noise, odor, dust, vibration or similar substance or condition that the Director determines to be excessive or objectionable, to remain on or be emitted from the Premises; shall not

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interfere with access to or from the Premises or the Seattle Center or any part thereof, or with the traffic thereon, or with any Seattle Center facility, business, activity or utility on or off Seattle Center grounds. Lessee shall not create any nuisance in or adjacent to the Premises and shall not do anything on the Premises that will create a danger to life or limb.

F. Fire Extinguisher Within Premises: During the Initial Term and Extended Term(s), if any, the Lessee shall secure, maintain and install in the Premises, in a prominent location, a 2A-10BC class fire extinguisher or an alternative approved by the Fire Marshall, and Lessee shall instruct all of its employees regarding its appropriate use. Such fire extinguisher shall be recharged not less than once a year and immediately following any use.

G. Objectionable Merchandise or Material: Notwithstanding any other provision of this Lease, the Lessee shall not display or offer for sale or rent, or allow to be displayed or offered for sale or rent, on the Premises, any merchandise or other material that the Director, in the exercise of such official's sole discretion, determines is unsafe; that portrays the City or Seattle Center or any aspect thereof in an incorrect, misleading, or unfavorable manner; that depicts or suggests in words, symbols, illustrations, or other forms, any act of violence, or any lewd, immoral, or obscene activity; that is inconsistent with the image of a first-class, family-oriented retail and entertainment development, or is otherwise inappropriate for a family-oriented recreation and entertainment facility such as Seattle Center; or that may create a substantial litter or other maintenance problem at Seattle Center.

H. Core and Key Change: Lessee shall obtain from the City, and pay in advance of delivery, the then current Seattle Center charge for whatever number of lock cores, padlocks and keys are desired for all doors in and to the Premises. If Lessee returns to the City all of the keys it obtained for the doors and padlocks on and to the Premises upon the expiration or earlier termination of this Lease, the City shall refund to Lessee all of the charges paid for such lock cores and keys.

I. Operation of gallery: Lessee shall operate a gallery on the premises for the display and sale of pottery objects. The gallery shall be furnished, equipped, and operated at no cost to the City.

8. UTILITY SERVICES

A. Extent of City Service: The City shall provide water and sewer service for the premises.

B. Lessee's Responsibility: The Lessee shall pay all charges for light, heat, and other public utilities (other than water and sewer), which shall be used in or charged against the Premises during the Initial Term and Extended Term(s), if any. The Lessee shall pay, before delinquency, all fees and charges for the installation, change, and relocation of any point or means of service by any utility or waste line or system.

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C. Interruption: The City shall not be liable for the interruption of any utility service. Such interruption of service shall not constitute a constructive eviction and Lessee shall make no claims therefore. Lessee further covenants not to bring suit or make any claim for damages allegedly arising from such interruption.

D. Special Services and Facilities Subject to Prior Director's Approval, and at Lessee's Cost: Lessee, directly or through a third party, may install, secure, maintain and repair, at no expense to the City, any utility service related to Lessee's operations and its use of the Premises that is not provided or maintained by the City; however, any utility or waste disposal facility, item of equipment, or service beyond that provided to the Premises by the City, must be installed only in accordance with plans and specifications approved by the Director and other appropriate City officials, in writing, in advance of such installation. Lessee shall not install on the Premises any fixture, furnishing, or trade equipment that exceeds the capacity of any utility or waste facility for such location. Lessee shall pay, before delinquency, all fees and charges for the installation, change, and relocation of any point or means of service by any utility or waste line or system. Lessee shall make arrangements with the utility service provider for the separate metering, where possible, of such service and the direct billing to the Lessee for the delivery of such service.

9. PARKING:

As of the commencement date of this Lease, the Seattle Center has a "Cooperative Parking Status" under Title 23 of the Seattle Municipal Code. Accordingly, unless otherwise specifically provided herein, the City does not provide any parking that is specifically for or associated with the Premises (including but not limited to that required by or for Lessee's staff, suppliers or customers), and whatever general, non-reserved parking the City makes available for Seattle Center tenants and their respective staffs, suppliers, and customers shall be shared on a first-come, first-served basis.

10. SIGNAGE, ADVERTISING & PUBLICITY

A. Prohibited Promotion & Other Material; Removal of Same: Lessee shall not display, post, or distribute any sign, symbol, advertising of any nature, or any printed material (including but not limited to posters) on any part of the Seattle Center, including but not limited to the Premises, except after receiving written approval therefor from the Director, whose approval shall be given or withheld in his/her sole discretion; and may undertake such activity only in or on location(s) approved by the Director. On or before the expiration or termination date of this Lease, whichever is earlier, or in the case of unauthorized material, on or before the date specified in the Director's notice to remove the same, Lessee shall remove, at no expense to the City, all such signs, symbols, advertising and printed material; and correct any unsightly condition, and repair any damage or injury to City property caused by such signs, symbols, advertising and printed material, and the removal thereof. In the event any such unauthorized material is not removed from City property by the date required herein, such material may be treated as Lessee property subject to removal and storage pursuant to Section 21 hereof.

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Any approved signs or other advertising matter shall be in compliance with all applicable laws, regulations and rules.

B. Use of Photos & Similar Materials: Each party hereto may make photographs, video tapes, and motion pictures of the Premises and the activity, people, displays and exhibits thereon; Provided, that in the event such visual material is to be used for commercial advertising purposes, prior to making the same, Lessee shall obtain the written approval of the Director for such use, which approval may be conditioned upon, among other things, the payment by the Lessee to the City of additional consideration; and prior to the use of any such photography, video tape, or motion picture, a written release shall be obtained from every individual identifiable in the same.

11. MAINTENANCE, CLEANING & REPAIR

A. City Responsibilities: The City shall maintain, clean and repair the exterior and structural aspects of the Premises, but not the interior areas of Premises. The City's maintenance, cleaning and repairing shall be to the ordinary standard of work performed on other, major use facilities at Seattle Center, to keep the same in good condition, normal wear and tear and damage and destruction by fire or other extraordinary casualty excepted. In connection therewith, the City shall remove garbage and other refuse from locations designated by the Director for such purpose, and repair potable water, sewer, and storm water lines connecting with similar lines on the Premises. In undertaking such maintenance, the City shall make a good faith effort to not unreasonably interfere with Lessee's business on the Premises. Lessee waives all claims for damages, including for any loss of business, resulting from City maintenance, cleaning and repair work except to the extent of City gross negligence. There shall be no abatement or reduction of rent arising by reason of City's making of any repairs, alterations, or improvements.

B. Lessee's Responsibilities: Lessee, at its own cost and expense, shall at all times keep the interior of the Premises, including all of Lessee's improvements, alterations, and additions thereto, and Lessee's personal property, in good repair and in a serviceable and sanitary condition. Notwithstanding Section 11.a., Lessee's responsibilities include repairing *all* damage done to the Premises by Lessee or any of Lessee's officers, contractors, agents, invitees, licensees or employees. In carrying out Lessee's responsibilities under this section, Lessee, among other things, shall:

- (1) Clean the interior glass in the windows, doors, display cases, and equipment on the Premises at least once a month, and replace any such glass immediately if it should crack or break
- (2) Repaint all painted surfaces at least once every five (5) years, and spot-paint any surface area that has become damaged immediately after such condition has been discovered;
- (3) Keep all drainage pipes free and open;

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(4) Have all plumbing and plumbing fixtures inspected at least once every quarter; repair all damage resulting from any plumbing fixture, any equipment connected to plumbing, or pipe not installed in the Premises by the City or caused by Lessee's failure to keep such fixture or pipe in good operating condition; and in the event of any failure by Lessee to satisfy this repair obligation within four (4) hours after receipt of notice from the Director of any such damage, the City reserves the right to undertake such repair, the cost of which shall be reimbursed by the Lessee;

(5) In a timely and careful manner, periodically remove all debris generated by or peculiar to the Lessee's operations on the Premises and place in an area designated by the Director;

(6) Replace, from time to time, worn or irreparably damaged trade equipment, furnishings and fixtures with other material, disposing of the replaced item in accordance with the recycling requirements of section 13.e.

In the event the Lessee fails to satisfy, in a timely manner after its receipt of notice from the Director of the need for such work, any of the obligations specified in this subsection, the City reserves the right (but shall have no obligation) to undertake such work. City shall have the right to enter the Premises for such purposes. In the event the City undertakes such work for the Lessee pursuant to this subsection, the Lessee shall promptly pay the City, upon receipt of a written statement, the actual expenses incurred by the City in undertaking such work (including but not limited to Seattle Center labor and project management) plus an administrative charge of \$250.00.

12. CITY ACCESS TO, & INSPECTION, REPAIR & IMPROVEMENT OF PREMISES & OTHER PROPERTY

A. Access to Premises: The Lessee shall provide the City and its contractors and consultants, their subcontractors, subconsultants and agents with access to the Premises at all reasonable times to inspect the same and to make any inspection, repair or improvement deemed necessary by the Director, but this right of access shall not impose on the City any obligation to make any repair, alteration, addition, or improvement except as specifically provided herein.

B. Permitted Interference With Lessee's Operations: In inspecting, and in making repairs, alterations, additions, and improvements, the City may erect barricades and scaffolding in and outside of the Premises, and may otherwise interfere with the conduct of the Lessee's business and operations where such action is reasonably required by the nature of the City's work; and such interference shall not be deemed to be a breach or default under this Lease.

C. Suspension of Lessee's Operations and Obligation to Pay Monthly Base Rent: In the event such inspection, repair, alteration, addition, or improvement work

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necessitates the temporary suspension of Lessee's business or operations in, on, or from the Premises, the Director shall notify the Lessee of such necessity and the anticipated beginning and ending dates of such suspension. Monthly Base or Adjusted Base Rent due to City pursuant to this Lease shall be prorated during each month in which the Lessee's business or operations are required by City to be suspended pursuant to this section, and the Lessee shall have no obligation to pay such prorated rent during the period that the Lessee's business or operations are suspended; such cancellation of the obligation to pay the prorated Monthly Base or Adjusted Base Rent shall constitute the totality of relief available, and Lessee waives all claims for damages and for any injury to and interference with its operations or business and losses occasioned by any such suspension.

D. City's Retention & Use of Key to Premises: Lessee shall provide the Director with a key with which to unlock all of the doors in, upon, and about the Premises, excluding Lessee's vaults, safes, and files, for each of the aforesaid purposes. The City shall have the right to use any and all means that the Director deems proper to open said doors in an emergency, in order to obtain entry to the Premises, without liability to Lessee except for any failure to exercise due care for Lessee's property. Any entry to the Premises obtained by the City by any of said means, or otherwise, shall not be construed or deemed to be an eviction of Lessee or a forcible or unlawful entry into, or a detainer of, the Premises or any portion thereof.

13. COMPLIANCE WITH LAW

A. General Requirements: Lessee, at no cost to the City, shall perform and comply with all applicable, current and future laws of the United States; the State of Washington; the Charter and Municipal Code of The City of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. Lessee shall use its best efforts to ensure that every person it admits to the Premises similarly performs and complies with the same. Whenever Lessee or its authorized representative is informed of any violation of any such law, ordinance, rule, regulation, license, permit, or authorization committed by it or any person admitted to the Premises, Lessee shall immediately desist from and/or prevent or correct such violation.

B. Licenses, & Other Authorizations: Lessee shall obtain and maintain all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

C. Taxes: The Lessee shall pay, before delinquency, all taxes, levies, and assessments arising from its activities on or occupancy of the Premises, including but not limited to taxes arising out of the activity or business conducted on the Premises; taxes levied on its property, equipment and improvements on the Premises; and taxes on Lessee's interest in this Lease and any leasehold interest deemed to have been created thereby under RCW Ch. 82.29A; and in the event the State of Washington makes any demand upon the City for payment of leasehold excise taxes resulting from the Lessee's occupancy of the Premises or withholds funds due to the City to enforce collections of

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leasehold excise taxes, Lessee shall remit the taxes demanded together with any interest and penalties associated therewith or, at no expense to the City, contest such collection action and indemnify the City for all sums expended by, or withheld by the State of Washington from the City in connection with such taxation.

D. Nondiscrimination. Lessee shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including the Seattle Municipal Code (SMC), notably SMC 20.44, and rules, regulations, orders, and directives of the associated administrative agencies and their officers. SMC 20.44.040 is incorporated into this Lease by reference.

E. Recycling of Waste Materials: Lessee, at no cost to the City, shall collect, sort and separate into such categories as may be legally required, all solid waste products on the Premises, and recycle all such products that are locally accepted for recycling. Each separately sorted category of waste products shall be placed in separate receptacles reasonably approved by the City, which receptacles shall be dumped or removed from the Seattle Center at such minimum frequency as is specified by the Director. The City reserves the right to refuse to collect or accept from Lessee any waste product that is not sorted and separated as required by law, ordinance, rule or regulation, and to require Lessee to arrange for the collection of the same at Lessee's sole cost and expense using a contractor satisfactory to the City. Lessee shall pay all costs, fines, penalties, and damages that may be imposed on City or Lessee as a consequence of Lessee's failure to comply with the provisions of this subsection.

14. ENVIRONMENTAL STANDARDS

A. Definitions: For the purpose of this subsection, the following terms shall be defined as provided below unless the context clearly requires a different meaning:

(i) "Laws or Regulation" shall mean any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction of which Lessee has knowledge), now or hereafter in effect including but not limited to the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Comprehensive Environmental Response Compensation and Liability Act as amended by the Superfund Amendments and Re-authorization Act of 1986, the Resource Conservation and Recovery Act as amended by the Solid and Hazardous Waste Amendments of 1984, the Occupational Safety and Health Act, the Emergency Planning and Community Right-to-Know Act of 1986, and the Solid Waste Disposal Act.

(ii) "Hazardous Substances" shall mean any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any federal, state, or local statute, ordinance, or regulation relating to environmental protection, contamination or cleanup.

B. Restrictions on Lessee Activities: Lessee shall not cause to occur upon the Premises or permit the Premises to be used to generate, produce, manufacture, refine, transport, treat, store, handle, dispose, transfer, or process Hazardous Substances except in compliance with all applicable Laws and Regulations. Lessee shall provide the Director with the Lessee's USEPA Waste Generator Number (if any), and with a copy of every Material Safety Data Sheet (MSDS), Generator Annual Dangerous Waste Report, environmentally related regulatory permit or approval (including every revision or renewal thereof) and any correspondence the Lessee receives from, or provides to, any governmental unit or agency in connection with Lessee's handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on the Premises.

C. Correction of Violations: If Lessee violates any of the terms of this section concerning the presence or use of Hazardous Substances or the handling or storing of hazardous wastes, Lessee shall promptly take such action as is necessary to mitigate and correct the violation. If Lessee does not act in a prudent and prompt manner, the City reserves the right, but not the obligation, to act in place of Lessee (for which purpose Lessee hereby appoints the City as its agent), to come onto the Premises and to take such action as the City deems necessary to ensure compliance or to mitigate the violation. If the Director has a reasonable belief that Lessee is in violation of any law or regulation, or that any action or inaction of Lessee presents a threat of violation or a threat of damage to the Premises, the City reserves the right to enter onto the Premises and take such corrective or mitigating action as the Director deems necessary. All costs and expenses incurred by the City in connection with any such action shall become immediately due and payable by Lessee upon presentation of an invoice therefor.

D. Testing: Lessee shall provide the City with access to the Premises to conduct an annual environmental inspection in January of each year of the term hereof or at such other time(s) as may be mutually agreed upon. In addition, Lessee shall permit the City access to the Premises at any time, upon reasonable notice, for the purpose of conducting environmental testing at the City's expense. Lessee shall not conduct or permit others to conduct environmental testing on the Premises without first obtaining the Director's written consent, which shall not be unreasonably withheld. Lessee shall promptly inform the Director of the existence of any environmental study, evaluation, investigation or results of any environmental testing conducted on the Premises whenever the same becomes known to Lessee, and Lessee shall provide a written copy of the same to the Director within thirty (30) days after the preparation of any such material.

E. Removal of Hazardous Substances Prior to Vacation of Premises: Prior to vacation of the Premises, in addition to all other requirements under this Lease, Lessee shall remove any Hazardous Substances placed on the Premises during the term of this Lease or Lessee's possession of the Premises, and shall demonstrate such removal to the Director's reasonable satisfaction.

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F. Reimbursement of City Costs: In addition to any remedy provided above, the City shall be entitled to full reimbursement from Lessee whenever the City incurs any cost resulting from Lessee's violation of any of the terms of this section, including, but not limited to, the cost of clean-up or any other remedial activity, fines, penalties assessed directly against the City, injuries to third persons or other property, and loss of revenue resulting from an inability to re-lease or market the Premises due to its environmental condition as the result of Lessee's violation of the terms of this Lease (even if such loss of revenue occurs after the expiration or earlier termination of this Lease).

G. Indemnification: In addition to all other indemnities provided in this Lease, and notwithstanding the expiration or earlier termination of this Lease, Lessee agrees to and shall defend (using legal counsel acceptable to the City), indemnify and hold the City free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from the existence or discovery of any Hazardous Substance on the Premises resulting from a violation of the terms of this section, or the migration of any Hazardous Substance from the Premises to other property or into the surrounding environment that is the result of a violation of the terms of this section, whether (a) made, commenced or incurred during the term of this Lease, or (b) made, commenced or incurred after the expiration or termination of this Lease if arising out of an event occurring during the term of this Lease.

15. CITY'S CONTROL OF BUILDINGS, GROUNDS & ACTIVITIES

Notwithstanding any other provision of this Lease, the City, without liability of any kind, may:

A. Physical Appearance: Increase, reduce or change, in any manner and any extent whatsoever, the number, appearance, dimensions, and location of any and every Seattle Center walkway, landscaping element, parking, service area, and building as desired by the City;

B. Traffic & Parking Regulation: Regulate all traffic within and adjacent to the Seattle Center; and restrict or prohibit the parking on City-owned or leased property of motor vehicles owned or operated by Lessee or any of its officers, employees, agents, suppliers, and invitees;

C. Admission Charges: Impose a reasonable charge for admission to the Seattle Center and any of the facilities therein, including parking facilities;

D. Events: Erect, display and remove promotional exhibits and materials and permit special events on the Seattle Center grounds and in or at any or every building and facility thereof;

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E. Rules & Regulations: Promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any area of Seattle Center;

F. Hours of Operation: Determine the days and hours that the Seattle Center and the various business operations therein will be open to the public;

G. Other Businesses & Operations: Change the size, number, type and identity of other businesses and operations being conducted or undertaken at Seattle Center; and authorize other lessees, licensees, and the sponsors of special events at Seattle Center, directly or indirectly, to offer for sale food and beverages, and for sale or rent any merchandise and service, including any that may be identical or similar to that offered by the Lessee;

H. Signage: Place "For Rent" or similar signs in the Premises for thirty (30) days prior to the expiration or termination date of this Lease, whichever is earlier.

I. Interference: Interfere with light, air or view, or the Lessee's operations or use and occupancy of the Premises, either in connection with or as a result of operations by or for City in the construction of any public work or its subsequent use and occupancy, or the repair and maintenance of any City facility or improvement. The City will make a good faith effort, however, to minimize such interference to the extent it is reasonably economical for the City to do so.

16. ASSIGNMENTS, SUBLEASES & OTHER INTEREST TRANSFERS

A. Director's Prior Written Consent Required: Lessee shall not assign, mortgage, or encumber, or otherwise transfer this Lease or sublet the whole or any part of the Premises without the prior written consent of the Director, whose consent may be withheld in the Director's sole discretion. In no event shall an assignment, sublease, or other transfer of the Lease relieve Lessee of any of its obligations under this Lease. Consent to any particular assignment, subletting, or transfer shall not operate as a waiver of the necessity for consent to any subsequent assignment, subletting or transfer.

B. Transferee's Obligations; Documentation: As a condition of the Director's approval of an assignment or transfer, any potential assignee or transferee otherwise acceptable to the Director shall assume, in writing, all of Lessee's obligations under the Lease; and Lessee and such assignee or transferee, shall agree, in writing, to be jointly and severally liable for the performance of all of Lessee's obligations under this Lease. As a condition of the Director's approval of any sublessee otherwise acceptable to the Director, such sublessee shall assume, in writing, all of Lessee's obligations under this Lease as to the subleased portion of the Premises; and Lessee and such sublessee shall agree, in writing, to be jointly and severally liable with Lessee for rent and performance of all of the terms, covenants, and conditions of such approved sublease. Lessee and any assignee, sublessee, or transferee shall remain jointly and severally liable regardless of any (i) agreement that modifies any of the rights or obligations of the parties to this Lease; (ii) stipulation that extends the time within which an obligation under this Lease is to be

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performed; (iii) waiver of the performance of any obligation under this Lease; or (iv) failure to enforce any obligation under this Lease.

Every proposed sublease, assignment, or other interest-transferring agreement shall be submitted to the Director for review and approval or disapproval after execution by the proposed subtenant, assignee, or other transferee, and not less than fourteen (14) calendar days prior to the commencement date of the proposed sublessee's, assignee's, or transferee's intended use of any portion of the Premises under such agreement or the assumption of any right or interest in any portion of the Premises or this Lease. Every sublease shall require the sublessee to submit to the Director and Lessee not more than ten (10) days after the end of each month during the term of its sublease and the month after the expiration or earlier termination of such sublease, a written statement identifying the amount of gross receipts generated by such sublessee on and from the portion of the Premises used and occupied by such sublessee during the immediately preceding month.

C. Change of Lessee's Organizational Structure or Ownership Constitutes Assignment: If Lessee is a corporation, the merger, consolidation, or liquidation of the Lessee or any change in the ownership of or power to vote thirty-three and one-third percent (33 1/3) or more of its capital stock, as held as of the date of execution of this Lease, shall be deemed an assignment.

D. Lessee's Authorization to Use Premises Constitutes Assignment or Sublease: If Lessee in any manner permits anyone to occupy all or any portion of the premises for any purpose including but not limited to the conduct of any business or other activity, whether or not business-related, not within the intent of this Lease or any sublease, such permission shall be deemed an assignment or sublease, as deemed appropriate by the Director.

17. EXCUSE & SUSPENSION OF OBLIGATIONS (FORCE MAJEURE)

If a party's performance (other than any monetary obligations) under this Lease is prevented by an unforeseeable act of nature; war or war-like operations; civil commotion; riot; labor dispute including a strike, lockout, or walkout; sabotage; Federal or State regulation or control; or other condition beyond the reasonable control of such party, then performance of such affected obligation shall be suspended (excluding, however, any monetary obligations), but only for the duration of such condition. The existence of more than one (1) such condition on a given day shall result in only a one (1) day extension.

18. DAMAGE OR DESTRUCTION

A. Report of Damage or Destruction: The Lessee shall submit a written report to the Director, in care of the Contracts and Concessions Office, regarding the circumstances of any damage to the Premises or any of the Tenant's improvements thereto, within twenty-four (24) hours after its discovery.

B. Rent Obligation in Event of Damage or Destruction: In the event the

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Premises are destroyed or damaged by fire or other casualty not occasioned by an act or omission of the Lessee or any of its officers, employees, contractors, agents, invitees, or guests, and such destruction or damage is so extensive as to render such Premises and improvements unusable (either because of the need to rebuild or to clean and refurbish the same) and the Lessee has given timely notice of such destruction or damage as provided by this section, Lessee's obligation to pay rent shall be abated until the date that such Premises and improvements are made usable or should have been made usable had the Lessee diligently prosecuted such repair, rebuilding, and restoration work. The unusability of the Premises and the duration of any such rent abatement shall be reasonably determined by the Director and confirmed by one or more notices to Lessee. In the event only a portion of the Premises is damaged or destroyed by fire or other casualty not occasioned by an act or omission of Lessee or any of its officers, employees, contractors, agents, invitees, or guests but the remainder of such Premises and improvements remains usable, as reasonably determined by the Director, and Lessee has given timely notice of such destruction or damage as provided by this section, Lessee shall pay a reduced amount of rent that is proportionate to the extent of the Premises that remains usable for the purposes identified in Section I hereof, which reduced rent amount shall be reasonably determined by the Director and identified by notice to Lessee, and paid by Lessee through the date reasonably specified by the Director in such notice or the later date specified in any subsequent notice.

C. Rebuilding, Repair & Restoration: In the event that insurance proceeds payable to the City will provide sufficient funds to enable the City to rebuild, repair and restore the Premises after their damage or destruction, and neither Lessee nor the City elects to terminate this Lease pursuant to this section, the City shall diligently prosecute such rebuilding, repair, and restoration. Lessee shall replace or repair in a timely manner and at no cost or expense to the City, all damaged or destroyed personal property that, prior to such damage or destruction, had been located on the Premises, and all improvements that Lessee made to the Premises, unless otherwise permitted by the Director. Upon the rebuilding, repair and reconstruction of the Premises, Lessee shall immediately re-occupy the whole of the Premises. The rent abatement or reduction provided pursuant to this section shall be discontinued and the full Base Rent and Adjusted Rent and additional sums specified in or pursuant to this Lease shall again be due and payable from and after the date specified in the notice given by the Director. The City shall not be liable to Lessee for damages, compensation or any other sum for inconvenience, loss of business, or disruption arising from any repair to or restoration of any portion of the Premises or the Building in which the Premises are located.

D. Termination Rights in Event of Damage or Destruction:

By Lessee: Notwithstanding any other provision in this Lease to the contrary, in the event that fifty percent (50%) or more of the Premises is damaged or destroyed by fire or other casualty not occasioned by an act or omission of Lessee, its officers, employees, contractors, agents, invitees, or guests, Lessee may terminate this Lease by providing notice thereof to the Director

By City: Notwithstanding any other provision in this Lease to the contrary, in the event that fifty percent (50%) of the Premises is destroyed or is so damaged by fire or other casualty as to be untenantable or unusable, or if the City desires to discontinue Lessee's operations because of substantial destruction of the Premises or other part of Seattle Center, regardless of whether the Premises are destroyed, damaged, or otherwise, the City may terminate this Lease by providing prior written notice thereof to Lessee.

Notice of Termination: Any notice of termination pursuant to this section shall be provided within sixty (60) days after the occurrence of the damage or destruction and shall specify the effective date of such termination.

19. DEFAULT & BREACH

A. Definition: If Lessee violates or breaches or fails to keep or perform any covenant, term or condition of this Lease, or if Lessee files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Lessee's assets or if Lessee makes an assignment for the benefit of creditors, or if Lessee is adjudicated insolvent, Lessee shall be deemed in default hereunder (a "Default").

B. City's Notice of Default & Breach: If Lessee is in Default, City shall provide written notice to Lessee, specifying the nature of the Default, the reasonable number of days (but not more than thirty (30) days) after the date of the notice within which such Default must be cured to avoid termination, and the City's intention to terminate this Lease if the Default is not corrected within such stated period.

C. Remedies: If Lessee fails to cure any Default within the time specified in the Director's notice, the City may thereafter terminate this Lease without any further proceedings, re-enter the Premises, lease and license others to use said Premises during any portion of the period of use remaining under this Lease had it not been terminated, and receive rent, additional rent and license fees and other sums therefore; Provided, that notwithstanding such termination and/or re-entry, Lessee's liability for the rent and any other sums due under the Lease to be paid to the City hereunder shall not be extinguished, and Lessee shall pay to the City the difference between said rent and any other sums due under the Lease and the sum the City receives (if any) for the use of the Premises by one or more other users during the period beginning on the date Lessee's rights under this Lease are terminated and ending on the scheduled expiration date of this Lease. Such payment shall be made monthly, within fifteen (15) days after the date of the City's invoice to Lessee. Lessee's liability for rent and any other sums due pursuant to this Section shall be subject to the late fees and interest provided for in Section 4 of this Lease. Lessee shall also be liable for and shall reimburse City for any other amount necessary to compensate City for all the detriment proximately caused by Lessee's failure to perform its obligations under this Lease, including but not limited to, any costs or expenses incurred by City in retaking possession of the Premises, maintaining or preserving the Premises after such Default, preparing the Premises for reletting to a new tenant, including repairs or alterations to the Premises for such reletting.

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leasing commissions, and any other costs necessary or appropriate to relet the Premises, and such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of Washington. If the City re-enters the Premises, City shall have the right, but not the obligation, to remove therefrom all or any part of the personal property located therein and may place the same in storage at a public warehouse at the expense and risk of Lessee.

D. Adequate Security: If a petition is filed by or against Lessee under any provision of the Bankruptcy Code or successor act, City reserves the right to require Lessee to post a cash bond with City equal to six (6) months' Base Rent and additional sums to provide City with adequate security for Lessee's performance of its obligations under this Lease.

E. Criteria for Substitute Tenant: The City's obligation to mitigate damages after a default by Lessee under this Lease that results in the City's regaining possession of all or part of the Premises shall be satisfied in full if the City undertakes to lease the Premises to another tenant (a "Substitute Tenant") in accordance with the following criteria:

- (1) The City shall have no obligation to solicit or entertain negotiations with any other prospective tenants for the Premises until the City obtains full and complete possession of the Premises including, without limitation, the final and unappealable legal right to re-let the Premises free of any claim of Lessee.
- (2) The City shall not be obligated to offer the Premises to any prospective tenant when other Premises on the Seattle Center suitable for that prospective tenant's use are currently available, or will be available within the next three months.
- (3) The City shall not be obligated to lease the Premises to a Substitute Tenant for a rental less than the current fair market rental then prevailing for similar comparable facilities in the same market area as the Seattle Center.
- (4) The City shall not be obligated to enter into a new lease under terms and conditions that are unacceptable to the City under the City's then current leasing policies for comparable space at the Seattle Center.
- (5) The City shall not be obligated to enter into a lease with any proposed Substitute Tenant that does not have in the Director's reasonable opinion, sufficient financial resource or operating experience. The City shall not be required to expend any amount of money to alter, remodel, or otherwise make the Premises suitable for use by a Substitute Tenant unless:

- (a) Lessee pays any such sum to the City in advance of the City's

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execution of a lease with such Substitute Tenant (which payment shall not be in lieu of any damages or other sums to which the City may be entitled to as a result of Lessee's default under this Lease); or

(b) The City, in the Director's sole discretion, determines that any such expenditure is financially justified in connection with entering into any lease with such Substitute Tenant.

The City shall not be obligated to enter into a lease with any Substitute Tenant whose use would:

- (c) Disrupt the tenant mix or balance of the Seattle Center;
- (d) Violate any restriction, covenant, or requirements contained in the lease of another tenant of the Seattle Center;
- (e) Adversely affect the reputation of the Seattle Center;
- (f) Be incompatible with the operation of the Seattle Center as a first-class event and cultural community gathering center.

F. Default by City: The City shall not be in default of any obligation to perform under this Lease unless the City fails to perform such obligation within a reasonable time, which time shall not extend more than thirty (30) days after written notice by the Lessee to the Director specifying the particular obligation that the City has failed to perform; *Provided*, however, that if the nature of the City's obligation is such that more than thirty (30) days are required for performance, then the City shall not be in default if the City commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

20. REMEDIES CUMULATIVE

Rights under this Lease are cumulative; failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. Each party shall also have any other remedy given by the law. The use of one remedy shall not be taken to exclude or waive the right to use another.

21. SURRENDER OF PREMISES; HOLDING OVER

A. Surrender & Delivery: Upon the expiration or termination date of this Lease, whichever is earlier, Lessee shall surrender the Premises in a broom clean condition, reasonable wear and tear excepted. Lessee shall promptly deliver to the Director all keys Lessee, and any of its officers, agents, and employees have to the Premises or any other part of the Seattle Center. Immediately following the vacating of the Premises and the surrender of the same to the City, a representative of the Lessee shall inspect the

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Premises with the Director to determine the condition of the Premises. The results of such inspection shall be summarized by the Director on a Premises inspection report, a copy of which shall be provided to Lessee. If the Director determines that Lessee has failed to surrender the Premises in a broom clean condition the Director shall have the right to restore the Premises to a broom clean condition at the expense of Lessee. Lessee shall reimburse the City for its costs therefor, including any administrative costs.

B. Removal of Lessee's Property: Prior to the expiration date of this Lease, or in the event this Lease is terminated, within fifteen (15) days after the termination date, whichever is earlier, Lessee shall remove, at its sole expense, all trade equipment and personal property owned or installed by Lessee in, on, or from the Premises, unless the Director agrees in writing that any requested items may stay. Lessee shall take due care to not injure or damage the Premises, and shall make such repairs to the Premises as shall be necessary to restore the same to their condition as of the commencement date of this Lease, ordinary wear and tear and improvements, additions, and alterations, approved by the City excepted.

C. Storage of Lessee's Property: In the event Lessee fails to remove trade equipment and personal property owned or installed by Lessee by the expiration date or sooner termination date, the City may, but shall not be required to remove such material from the Premises and store the same, all at Lessee's expense; and in the event the City removes or arranges for the storage of such material, Lessee shall reimburse the City for its costs therefor, including any restoration and administrative costs.

D. Hold-over Use & Occupancy of Premises: In the event Lessee, with the Director's consent, holds over after the expiration or sooner termination of the Lease Term, the resulting use and occupancy shall be on a monthly basis, during which time Lessee shall be bound by all of the provisions of this Lease other than the amount of the monthly Adjusted Rent, which amount shall be the greater of the amount charged for the month immediately preceding the expiration or termination date, whichever is earlier, or the fair market value for the Premises. If, however, Lessee holds over without the Director's consent, after the expiration or sooner termination of the Lease Term, whether by failing to remove its trade equipment or personal property or otherwise, Lessee shall pay to the City, as damages twice the amount of (a) the Rent and additional sums due the month prior to expiration or sooner termination of the Lease Term or (b) the fair market rent and additional sums due the month prior to expiration or sooner termination, whichever is higher, and shall be bound by all of the other provisions of this Lease. If Lessee fails to surrender the Premises upon the expiration or sooner termination of this Lease without the Director's consent, Lessee shall indemnify, defend, and hold harmless the City from all losses, damages, liabilities, and expenses resulting from such failure, including without limiting the generality of the foregoing, any claims made by any succeeding tenant arising out of such failure.

E. No Claim for Removal: In no event shall Lessee make any claim or demand upon the City nor shall the City be liable for any inconvenience, annoyance,

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disturbance, or loss of business or any other damage suffered by the Lessee arising out of removal operations under Subsection: 1 (b) and (c) hereof.

22. NOTICES

All notices from either party to the other shall be in writing and delivered or mailed, postage prepaid, to the intended recipient at the address specified on the signature page of this Lease, or to such other address as may be specified, from time to time, by either party, by notice to the other party.

23. NO RELATIONSHIP ESTABLISHED

The City shall in no event be construed to be a partner, associate, or joint venturer of the Lessee, or any party associated with the Lessee. The Lessee is not an agent of City for any purpose whatsoever. The Lessee shall not create any obligation or responsibility on behalf of the City or bind the City in any manner.

24. AUTHORITY OF "DIRECTOR"

No action of the Director pursuant to or in implementation of this Lease shall constitute any official action by any other City department or official that may be required by law, ordinance, rule or regulation before Lessee may rightfully commence, suspend, enlarge, or terminate any particular undertaking or may obtain or exercise any particular right or privilege under this Lease. Any approval, consent or permission required of the Director by this Lease may be granted, conditioned or withheld by the Director in the exercise of such official's sole discretion.

25. AMENDMENTS

No modification or amendment of the terms hereof shall be effective unless in writing and signed by authorized representative of each of the parties hereto.

26. NO WAIVER

Nothing other than a written document signed by the Director and specifically declaring a City intent to waive a particular breach or default by Lessee shall constitute a waiver of such breach or default. No such document shall waive Lessee's failure to fully comply with any term or condition of this Lease not specifically referenced therein, irrespective of any knowledge any City officer or employee may have of such breach, default, or noncompliance. No waiver by either party shall be construed to be, or operate as, a waiver of any subsequent default in full performance of any provision of this Lease. The payment or acceptance of any Rent, other sums due, or other compensation, whether after a default or from a sublessee or assignee, shall not be deemed to constitute

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consent to or acceptance of such default or acceptance of defective or incomplete performance in the future or any such subtenancy or assignment.

27. USE OF LANGUAGE

Terms used in the neuter gender include the masculine and feminine; and terms used in the singular or plural include the other, as the context may require.

28. CAPTIONS

The titles of sections are for convenience only and do not define or limit the contents.

29. INVALIDITY OF PARTICULAR PROVISIONS

Should any term, provision, condition, or other portion of this Lease or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of this Lease or the application of such term or provision to person or circumstances other than those to which it is held invalid or unenforceable shall not be affected hereby and shall continue in full force and effect.

30. GOVERNING LAW & VENUE

This Lease shall be interpreted and construed using Washington Law. The venue for any action under this Lease shall be in the Superior Court of the State of Washington for King County.

31. BINDING EFFECT

The provision, covenants, and conditions contained in this Lease apply to bind the parties, their legal heirs, representatives, successors, and assigns.

32. INSTALLATION OR INTEGRATION OF VISUAL ART WORKS PROHIBITED WITHOUT DIRECTOR'S CONSENT

A. The City reserves to and for itself the right to approve or disapprove of the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration. Lessee shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without the prior, express, written consent of the Director. The Director's consent to the installation of any such art work may be granted, granted upon one or more conditions, or withheld in

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the Director's discretion; Provided, however, that Director's consent to the installation by or for Lessee of any such art work shall not be required under the following three (3) circumstances:

- (1) If such art work (a) weighs less than fifty (50) pounds; and (b) is of a size and has such dimensions and material composition that makes its passage through an open 32" x 78" or larger doorway a simple and easy maneuver; and (c) is to be installed on the floor, a piece of furniture, or similar surface without further anchoring of any kind or nature, or on a wall using no more than two (2) simple picture hooks and wire; all so that the easy removability from the Premises of such art work without its destruction, distortion, mutilation or other modification by reason of such removal is undeniable; or
- (2) If Lessee delivers to City a waiver appropriately executed by the art work creator, for the benefit of the City and its successors and assigns as the owner of the Premises, of the creator's right of integrity regarding such art work, in a form of waiver that satisfies both City and the requirements of 17 U.S.C. §106A(e), as the same now exists or is hereafter modified; or
- (3) If the City executes with the creator of a work of visual art to be installed in the Premises a consent agreement of the type contemplated by 17 U.S.C. §113(d)(1), as the same now exists or is hereafter amended, and in the form and manner specified by City.

B. In the event the creator of any work of visual art installed in the Premises by or for Lessee has not executed a waiver, or such creator and the City have not executed a consent agreement, each as described herein, Lessee shall ensure that, prior to removing or allowing the removal from the Premises of any such art work, such creator is given both notice, as contemplated in 17 U.S.C. §113(d)(2), of the intended removal of such art work, and the time required by that statutory provision to respond to such notice, and that Lessee takes whatever other action(s) may be required by such legislation to ensure that no claim, action or suit alleging a violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended, and arising out of any act or omission of or for Lessee or any of its officers, employees, or agents, is filed or lodged against the City in its capacity as the Premises owner.

C. Lessee's Indemnification of the City Against Liability under Visual Artists Rights Act of 1990. Lessee shall protect, defend, and hold the City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of this section; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Lessee or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether the City or any other

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person employed by the City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

33. ATTORNEYS FEES

If an action is brought to enforce the terms of the Lease, each party agrees to bear its own attorneys' fees and costs.

34. ACKNOWLEDGEMENT OF NEGOTIATED LEASE

The parties to this Lease acknowledge that it is a negotiated lease, that they have had the opportunity to have the Lease reviewed by their respective legal counsel, and that the terms and conditions of this Lease are not to be construed against any party on the basis of such party's draftsmanship thereof.

35. EXHIBITS

The following exhibits are made a part of this Lease:

Exhibit A: Premises Floor Plan/Map

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year indicated below:

LESSEE:

POTTERY NORTHWEST, INC.

By Jean Griffith
Jean Griffith, President

Board of Directors

LESSOR:

THE CITY OF SEATTLE

By Virginia Anderson
Virginia Anderson, Director

Seattle Center Department

BUSINESS ADDRESSES FOR NOTICES

LESSEE:

Director

Pottery Northwest
226 First Avenue N
Seattle, WA 98109
PHONE NO.: 206 285-4421

LESSOR:

Manager, Contracts & Concessions

Seattle Center Department
305 Harrison, Room 322
Seattle, WA 98109
PHONE NO.: 206-684-7114

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STATE OF WASHINGTON)

) Ss (Acknowledgment for Lessee, Pottery Northwest)

COUNTY OF KING)

On this 13 day of August, 2003, before me,
a Notary Public in and for the State of Washington, duly
commissioned and sworn, personally appeared

Jean Griffith, to me known to be the President of POTTERY NORTHWEST Board of Directors, the entity that executed the foregoing Lease as Lessee; and acknowledged to me that she signed the same as the free and voluntary act and deed for said entity, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument for said entity.

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

WITNESS MY HAND AND OFFICIAL SEAL the day of year in this certificate above written.



David M. Rahn

Signature

David M. Rahn

(Print or Type Name)

NOTARY PUBLIC in and for the State of
Washington,

Residing at Seattle

My commission expires: 3/9/06

STATE OF WASHINGTON)

) Ss (Acknowledgment for Lessor, City of Seattle)

COUNTY OF KING)

On this 11th day of August, 2003, before me,
a Notary Public in and for the State of Washington, duly
commissioned and sworn, personally appeared

Virginia Anderson, to me known to be the Seattle Center Director of the CITY OF SEATTLE, the corporation that executed the foregoing Lease as Lessor; and acknowledged to me that she signed the same as the free and voluntary act and deed for

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said entity, for the the purposes therein mentioned, and on oath stated that she was authorized to execute said instrument for said entity.

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

WITNESS MY HAND AND OFFICIAL SEAL the day and year in this certificate above written.



M. Aiken

Signature

M. Aiken

(Print or Type Name)

NOTARY PUBLIC in and for the State of Washington,

Residing at King County

My commission expires: 1-14-06

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STATE OF WASHINGTON – KING COUNTY

--SS.

161578
City of Seattle, Clerk's Office

No. TITLE ONLY PUBLICATIONS

Affidavit of Publication

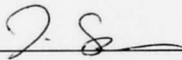
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

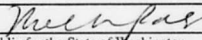
CT:121213-214&121222

was published on

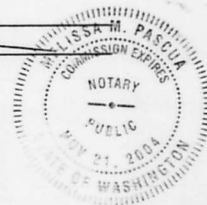
7/31/2003


Subscribed and sworn to before me on

7/31/2003


Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication



State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on July 14, 2003, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 664-8344.

ORDINANCE NO. 121213

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 121222

AN ORDINANCE relating to financing the design and construction of improvements to the Fremont Bridge; authorizing the Director of

Transportation to execute a Public Works Trust Fund Loan Agreement with the Washington State Department of Community, Trade and Economic Development for design and construction of the replacement of bridge approaches and the mechanical equipment which lifts the bridge deck; authorizing the acceptance of the Public Works Trust Fund proceeds and the incurring of indebtedness; and making a reimbursable appropriation; all by a three-fourths vote of the City Council.

ORDINANCE NO. 121214

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of a lease agreement with Pottery Northwest, Inc., for use of space on the Seattle Center campus.

Publication ordered by Judith E. Pippin, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, July 21, 2003.
731161578

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