

Ordinance No. 123965

Council Bill No. 117562

AN ORDINANCE relating to the City Light Department; declaring certain property rights surplus to utility needs; authorizing the Superintendent to execute a long-term ground lease with The Boeing Company for the use and occupancy of a portion of the City's Georgetown Steam Plant Flume Property; and ratifying and confirming certain prior acts.

CF No. _____

Date Introduced:	<u>Aug. 13, 2012</u>	
Date 1st Referred:	To: (committee) <u>Energy and Environment</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
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Date Presented to Mayor:	Date Approved: <u>9/10/12</u>	
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Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: [Signature]
Councilmember

Committee Action:

8-14-12 Do APPROVE 3-0 TB, SC, MO

9-4-12 Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

CITY OF SEATTLE
ORDINANCE 123965
COUNCIL BILL 117552

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4 AN ORDINANCE relating to the City Light Department; declaring certain property rights
5 surplus to utility needs; authorizing the Superintendent to execute a long-term ground
6 lease with The Boeing Company for the use and occupancy of a portion of the City's
Georgetown Steam Plant Flume Property; and ratifying and confirming certain prior acts.

7 WHEREAS, The Boeing Company ("Boeing") has leased from The City of Seattle ("City")
8 portions of the City's Georgetown Steam Plant Flume Property ("Premises"), under two
9 leases dated May 15, 1953 and a third lease dated October 1, 1955, authorized by
Ordinances 81931 and 84344 respectively; all of which expired December 31, 1992; and

10 WHEREAS, Boeing has been using and occupying the Premises continuously since the
11 expiration of the three leases on a month-to-month basis; and

12 WHEREAS, Boeing and the City would like to enter into a new ground lease for a 19-year term,
13 with two optional five-year extension periods, for Boeing's use and occupancy of the
Premises; NOW THEREFORE,

14
15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

16 Section 1. Pursuant to the provisions of R.C.W. 35.94.040 and after public hearing,
17 certain real property rights acquired for an electrical generating plant are no longer needed
18 exclusively for the City of Seattle's utility purposes over, across, and upon the real property
19 described in Exhibit A to Attachment 1 hereto, and are declared surplus to City needs.

20
21 Section 2. The Superintendent of the City Light Department, or his designee, is
22 authorized to execute for and on behalf of The City of Seattle, a 19-year ground lease agreement
23 with The Boeing Company for the use and occupancy of a portion of the Georgetown Steam
24



John Bresnahan
SCL Boeing GSP Flume Lease ORD
June 18, 2012
Version #1

1 Plant Property in substantially the form of Attachment 1 hereto; exhibits to which contain the full
2 legal description of the Premises to be leased.

3 Section 3. Any act consistent with the authority of this ordinance taken prior to its
4 effective date is hereby ratified and confirmed.

5 Section 4. This ordinance shall take effect and be in force 30 days after its approval by
6 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
7 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

8
9 Passed by the City Council the 4th day of September, 2012,
10 and signed by me in open session in authentication of its passage this

11 4th day of September, 2012.

12
13
14 President _____ of the City Council

15
16 Approved by me this 10th day of September, 2012.

17
18
19 Michael McGinn, Mayor

20 Filed by me this 11th day of September, 2012.

21
22
23 Monica Martinez Simmons, City Clerk

24 (Seal)

25 Attachment 1: Ground Lease Between the City of Seattle and The Boeing Company



Attachment 1

**GROUND LEASE
BETWEEN
THE CITY OF SEATTLE
AS LANDLORD,
AND
THE BOEING COMPANY
AS TENANT**

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GROUND LEASE

THIS GROUND LEASE ("Lease") is made and entered into by and between **THE CITY OF SEATTLE**, acting by and through the **CITY LIGHT DEPARTMENT**, a municipal corporation of the State of Washington ("Landlord"), and **THE BOEING COMPANY** a corporation organized under the laws of the State of Delaware ("Tenant").

Landlord owns certain real property commonly known as the Georgetown Steam Plant Flume Property ("Premises"). Tenant is a manufacturer of commercial and military aircraft and related systems with major production facilities located in the City of Seattle. Tenant has leased or rented the Premises continuously from Landlord for purposes related to Tenant's aircraft manufacturing business since the original leases dated May 15, 1953 and October 1, 1955 were executed. Tenant now wishes to lease the Premises from Landlord, and Landlord wishes to lease the Premises to Tenant, for an additional term under the following terms and conditions.

NOW THEREFORE, Landlord and Tenant covenant and agree as follows:

1. **General Lease Terms.** The following terms shall have the following meanings, except as otherwise specifically modified in this Lease:
 - A. **Premises:** The Premises are the City of Seattle City Light Department property commonly known as the Georgetown Steam Plant Flume Property located in Seattle, Washington, that are legally described in Exhibits to this Lease as specified under Section 2.A.
 - B. **Lease Term:** This Lease will commence on the first day of the first whole calendar month that is at least thirty (30) days after the effective date of an ordinance authorizing such Lease is passed by the Seattle City Council and approved by the Mayor of the City of Seattle ("Commencement Date"). This Lease will terminate on August 31, 2030 (the "Termination Date"), unless terminated earlier in accordance with the provisions of this Lease. The "Lease Term" is the period between and including the Commencement Date and the Termination Date.
 - C. **Base Rent and Additional Charges:** For use and occupancy of the Premises during the Lease Term, Tenant shall pay Landlord Twenty Thousand Eight Hundred Ninety-Seven and 00/100 Dollars (\$20,897.00) per month as Base Rent, as and when specified in Section 4 of this Lease. Whether or not so designated,



all other sums due from Tenant under this Lease shall constitute Additional Charges, payable when specified in this Lease.

- D. Permitted Use: Commercial and military aircraft and related manufacturing. During the Lease Term, Tenant may use the Premises for parking of vehicles owned, leased, or operated by Tenant and Tenant's employees, vendors, contractors and customers, notwithstanding the prohibition against parking vehicles contained in that certain Stormwater Drainage Pipe Easement between Landlord as Grantor and Tenant as Grantee. However, on any portion of the leased Premises subsequently withdrawn by the Landlord pursuant to Section 2. F below, parking by Tenant shall no longer be permitted.
- E. Optional Extension Periods: Up to two (2) optional lease term extension periods of five (5) years each may be exercised by mutual written agreement of Landlord and Tenant following the expiration of this Lease provided that neither party is in default of this Lease, and that Tenant has given written notice to Lessor of its request for extension of the Lease at least 120 days prior to the end of the initial Lease term, or first extension period, as applicable.
- F. Notice Addresses:

To Landlord: The City of Seattle
City Light Department
Real Estate Services
700 Fifth Avenue, Room 3014
P.O. Box 34023
Seattle, WA 98124-4023

To Tenant: The Boeing Company
c/o CB Richard Ellis
Attn: Lease Administration
5100 Poplar Avenue, Suite 1000
Memphis, TN 38137

or to such other address as shall be furnished in writing with ten (10) days prior notice by either party.

2. Premises.



- A. Description of Premises. The Premises are legally described in Exhibit "A" and depicted by survey map in Exhibit "B", both attached hereto and by this reference made a part hereof. Premises do not include any building or structure owned by, constructed by, or constructed on behalf of the Tenant; however, Premises does include any and all land on which such buildings or structures exist.
- B. Grant. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises upon the terms and conditions stated herein.
- C. Condition. The Premises are leased by Landlord and accepted by Tenant in an "as is" condition.
- D. Permitted Use. Tenant shall use the Premises for commercial/military aircraft manufacturing and research and development activities and no other purpose without Landlord's written approval. During the Lease Term, Tenant may use the Premises for parking of vehicles owned, leased, or operated by Tenant and Tenant's employees, vendors, contractors and customers, notwithstanding the prohibition against parking vehicles contained in that certain Stormwater Drainage Pipe Easement between Landlord as Grantor and Tenant as Grantee. However, on any portion of the leased Premises subsequently withdrawn by the Landlord pursuant to Section F below, parking by Tenant shall no longer be permitted.
- E. Structures and Improvements. Any provisions contained in any prior lease pertaining to Tenant-owned structures or improvements on the Premises are hereby made null and void. All Tenant-owned structures or improvements existing on the Premises as of the effective date of this Lease are permitted to remain under the terms and conditions set forth in this Lease, including but not limited to Section 5 of this Lease.
- F. Reservation of Portion of Premises by Landlord for Future Use. A portion of the Premises, approximately 10,000 square feet in area, as shown in Exhibit "C" hereto, may be withdrawn by Landlord from the leased Premises, at Landlord's sole discretion, for access and parking for the Georgetown Steam Plant ("GTSP Parking and Access Area"). The area to be withdrawn from this Lease for the GTSP Parking and Access Area will provide sufficient access to fire emergency lanes and legally required safety requirements as required for Tenant's structures within the Premises. Landlord will provide two hundred seventy (270) days prior written notice to Tenant that it must vacate the GTSP Parking and Access Area



and the amount of monthly rent due from Tenant to Landlord will be reduced at the time of withdrawal by an amount proportional to the area actually withdrawn, compared to the original area of this Lease.

3. Rent.

- A. Base Rent. Tenant shall pay to Landlord at the address and to the account specified by Landlord, without notice or demand or any setoff or deduction whatsoever, in lawful money of the United States the monthly Base Rent specified in Subsection 1.C in advance on the first day of each month and (b) Additional Charges as and when specified elsewhere in this Lease, but if not specified, then within ten (10) days after demand. Base Rent and, if appropriate, as reasonably determined by Landlord, Additional Charges shall be prorated on a daily basis for any partial month within the Lease Term, and for any partial initial month in the Lease Term shall be paid on the first day of the Lease Term.
- B. Statements. Landlord has a policy of issuing periodic billing statements for its accounts receivable under lease; however, Tenant remains fully responsible for making timely rent payments as required under this Lease regardless of whether Landlord issues a billing statement or Tenant receives a monthly statement from Landlord. In the case of an error in billing, or Tenant's failure to receive a monthly statement, Tenant agrees that the terms and conditions contained in this Lease control, and will make payments when due without prompting or notice from Landlord.
- C. Rent Escalation. The Base Rent shall increase or decrease on March 1, 2015, and every three (3) years thereafter on March 1st, by the cumulative percentage increase or decrease in the Consumer Price Index, All Urban Consumers (CPI--U) for the Seattle Tacoma-Bremerton Metropolitan Area for the three-year period as reported by the U.S. Bureau of Labor Statistics (BLS). Grantor shall use the BLS report from the December immediately prior to the end of each three-year period to calculate the cumulative change in CPI-U; e.g., if Grantee continues to use the Premises on March 1, 2015, the rent will change by the cumulative percentage increase or decrease in the CPI-U, Seattle-Tacoma-Bremerton Metropolitan Area, as reported in the December, 2014 BLS report, for the period of March 1, 2012 to December 31, 2014. Notwithstanding the



foregoing, in no event shall the amount of the cumulative increase for a given three-year period exceed 16% of the Base Rent for the prior three-year period.

4. Late Charge; Interest.

If Tenant fails to pay the Landlord any sum when due, such amount shall bear interest at the rate of twelve percent (12%) per annum from the date due until the date paid.

5. Structures and Equipment.

All Tenant-owned structures, equipment, and improvements existing on the Premises as of the effective date of this Lease are shown on Exhibit "D" hereto, and are permitted to remain on the Premises under the following terms and conditions:

- A. Existing Structures. No additions to any existing structure, or modifications that increase the floor area or height of any existing structure, or additional above- or below-ground level structures appurtenant to any existing structure are permitted without the prior written approval of the Landlord. Tenant shall submit any plans or designs for such additions or modifications to the Landlord as far in advance of construction as possible; however, in no case shall the Landlord have less than ninety (90) days to review and, if acceptable, approve said plans.
- B. Additional Structures. No additional structures of any kind or type are permitted to be constructed without the prior written approval of the Landlord. If Tenant wishes to construct any additional structures of any kind, Tenant shall submit plans or designs for such structures to the Landlord as far in advance of construction as possible; however, in no case shall the Landlord have less than one hundred twenty (120) days to review and, if acceptable, approve said plans.
- C. Removal on Termination. Upon termination or earlier cancellation of this Lease, Tenant shall remove all buildings, sheds, or other structures owned by, constructed by, or constructed on behalf of Tenant, from the Premises within ninety (90) days following such termination or earlier cancellation, with the exception of structures installed in accordance with recorded easements. Landlord may, at its option, additionally require Tenant to remove building or structure foundations and any and all subsurface structures appurtenant to any structure on the Premises. Such option shall be exercised by written notification to Tenant within thirty (30) days of termination or receipt of notice of earlier cancellation by either Landlord or Tenant. Tenant shall pay the agreed rental amount due, on a



non-prorated, monthly basis, for the period immediately prior to termination or cancellation for any portion of the ninety (90) days it may require to comply with this condition C.

- D. Landlord's Option. In lieu of the removal required by paragraph C above, the Landlord, at its option, may agree to accept ownership of any or all of the structures, buildings, etc. upon termination or earlier cancellation of this Lease. Landlord's option shall be exercised by written notification to Tenant within thirty (30) days of termination or receipt of notice of earlier cancellation by either Landlord or Tenant. The agreement accepting ownership of any of Tenant's structures shall be in the form of a bill of sale with a nominal consideration value of one (1) dollar. The agreement must be executed within the ninety (90) day removal period set forth in paragraph C above. No extensions of the ninety (90) day removal period shall be granted.
- E. Equipment Removal. All Tenant-owned equipment, whether free-standing or attached to any structure or building, materials, refuse, waste, junk and all other items, materials and objects must be removed within thirty (30) days following termination or earlier cancellation of this Lease, irrespective of whether any option(s), set forth in paragraphs C and D, is exercised. Tenant shall pay the agreed rental amount due, on a non-prorated, monthly basis for the period immediately prior to termination or cancellation, for any portion of the thirty (30) days it may require to comply with this condition E.
- F. Property Abandoned and Disposal. Any structure, building, equipment etc. remaining on the Premises ninety-one (91) days after termination or earlier cancellation of this Lease shall, at the sole option of Landlord, vest in, and become the property of, the Landlord. Any items or materials belonging to Tenant and left on the Premises shall be deemed abandoned and shall at the sole option of the Landlord, become Landlord's property. Any items or materials that Landlord deems as waste, refuse, junk or otherwise requiring disposal shall be disposed of by Landlord and Tenant agrees that it shall fully reimburse Landlord for the costs of such disposal. Tenant waives all claims against the Landlord, as well as its rights to recover compensation under any theory of inverse condemnation, or under any other remedy available in law or equity, for Landlord's exercise of its rights, or of any of its options, under this Section 5.



LANDLORD AND TENANT ACKNOWLEDGE THAT THE TERMS AND CONDITIONS OF THIS SECTION 5 WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

6. Tenant's Operations.

- A. Use of Premises. Tenant shall use the Premises only for the Permitted Use as defined in Section 2.D. Tenant shall maintain the Premises in a clean, orderly and neat fashion, permitting no objectionable odors to be emitted from the Premises and shall neither commit waste nor permit any waste to be committed thereon. Tenant shall not permit any accumulation of trash on or about the Premises. Tenant shall not create or contribute to the creation of a nuisance within the Premises, and Tenant shall not engage in or permit any action that will unreasonably disturb its neighbors. Tenant shall not do or permit anything to be done in or about the Premises, not keep or bring anything on the Premises, which will cause a cancellation of any insurance policy covering said Premises or any part thereof.
- B. Compliance with Laws; Non-discrimination.
- (i) Tenant shall not use or permit the Premises or any part thereof to be used for any purpose in violation of any municipal, county, state or federal law, ordinance or regulation, or for any purpose offensive to the standards of the community of which the Premises is a part. Tenant shall promptly comply, at its sole cost and expense, with all laws, ordinances and regulations now in force or hereafter adopted relating to or affecting the condition, use or occupancy of the Premises.
- (ii) Without limiting the generality of the foregoing subsection, Tenant agrees to and 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 but not limited to Chapters 14.04, 14.10 and 20.42 of the Seattle Municipal Code, as they may be amended from time to time, and rules, regulations, orders and directives of the associated administrative agencies and their officers.
- C. Liens and Encumbrances. Tenant shall keep the Premises free and clear of, and shall indemnify, defend and hold Landlord harmless from, any and all liens and encumbrances arising or growing out of any act, omission, or breach of this Lease or the use, improvement or occupancy of the Premises by Tenant or any of its



principals, officers, employees or agents. If any lien is so filed against the Premises, Tenant shall either cause the same to be fully discharged and released of record within ten (10) days after Landlord's demand therefor or within such period, provide Landlord with cash or other security acceptable to Landlord in an amount equal to one and one-half (1½) times the amount of the claimed lien as security for its prompt removal. Landlord shall have the right to disburse such security to cause the removal of the lien if a judgment is entered against Tenant in the lien proceeding if Tenant is otherwise in default under this Lease or if Landlord otherwise deems such necessary, in Landlord's sole discretion.

7. Hazardous Substances.

- A. **General Obligation.** Tenant shall not keep on or about the Premises any substance now or hereafter designated, or containing any component now or hereafter designated, as hazardous, dangerous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance ("Hazardous Substances"), except Hazardous Substances typically used in the course of operations comparable to Tenant's operations under the Permitted Uses and in normal quantities handled in compliance with applicable laws. With respect to any Hazardous Substances Tenant brings, stores, keeps or uses on or about the Premises, Tenant shall comply with all applicable laws and promptly, timely and completely comply with all governmental requirements for reporting and record keeping; within five (5) days after Landlord's request therefor, provide evidence satisfactory to Landlord of Tenant's compliance with all applicable governmental rules, regulations and requirements; and comply with all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment and disposal of Hazardous Substances. Any and all costs incurred by Landlord in order to enforce Tenant's compliance with this Subsection 7.A shall be Additional Charges and shall be due and payable to Landlord within ten (10) days after Landlord's demand therefor.
- B. **Tenant Liability.** Tenant shall be fully and completely liable to Landlord for any and all cleanup costs and expenses and any and all other charges, expenses, fees, fines, penalties (both, civil and criminal) and costs imposed with respect to Tenant's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises during the Lease Term.
- C. **Landlord's Right to Monitor.** Landlord shall have the right to enter the Premises, upon reasonable notice to Tenant, for any and all inspections, tests, or other



environmental monitoring or assessment that Landlord deems necessary, in its sole discretion. Additionally, at its discretion, Landlord shall have the right to take soil samples or place monitoring wells on the Premises, provided that Landlord will work cooperatively with Tenant to avoid material interference with Tenant's operations.

- D. Notice. At all times during the Term, Tenant shall provide Landlord with written notice of the following: (i) any spill or release of Hazardous Substances in, on, or about the Premises, and (ii) any notice or communication from any regulatory authority or agency with respect to Hazardous Substances in, on, or about the Premises, and (iii) any other circumstance or condition in, on, or about the Premises that relates to Hazardous Substances.
- E. Indemnity. Without limiting the generality of Tenant's indemnification of Landlord in Section 12 of this Lease, Tenant shall indemnify, defend and hold Landlord and lenders to Landlord ("Lender") harmless from any and all of the costs, fees, penalties, charges and expenses incurred by, assessed against, or imposed, upon Landlord and/or Lender as a result of Tenant's use, disposal, transportation, generation and/or sale of Hazardous Substances or Tenant's failure to comply with any Environmental Law (as defined in Section 7.F. below) during the Lease Term, or Tenant's failure to comply with any provision of this Section 7.
- F. Terms Defined. For purposes of this Lease, the term "Hazardous Substances" includes without limitation (a) those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances" or "hazardous wastes" in any Environmental Law; (b) petroleum products and petroleum byproducts; (c) polychlorinated biphenyls; and (d) chlorinated solvents. The term "Environmental Law" includes any federal, state, municipal or local law, statute, ordinance, regulation, order or rule pertaining to health, industrial hygiene, environmental conditions, or Hazardous Substances.

8. Utilities and Services.

- A. Tenant's Responsibility. Tenant shall be solely responsible for and shall promptly pay when due to the applicable providers all charges for utilities to the Premises, including but not limited to, electricity, natural gas, trash collection, water, sewer, data and telecommunications services.



- B. Groundskeeping; Refuse Collection; Recycling of Waste Materials. Tenant shall provide all necessary groundskeeping services for the Premises to a level consistent with other similar facilities and operations and to the Landlord's reasonable satisfaction. Tenant shall be responsible for proper storage and removal of trash, litter pickup and recycling consistent with City standards.
- C. Interruption. Landlord shall not be liable for any loss, injury or damage to persons or property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond Landlord's reasonable control shall be deemed an eviction of Tenant or to relieve Tenant from any of Tenant's obligations hereunder or to give Tenant a right of action against Landlord for damages. Tenant acknowledges its understanding that there may be Landlord-planned utility outages affecting the Premises and that such outages may interfere, from time to time, with Tenant's use of the Premises. Landlord shall endeavor to provide Tenant with 48 hours prior notice of any Landlord-planned electricity outage but shall not be liable to Tenant for Landlord's failure to provide such notice. Landlord has no obligation to provide emergency or backup power to Tenant. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Tenant. If the utilities are interrupted at the Premises so as to render them unfit for the Permitted Use for more than twenty-four (24) consecutive hours, then the Rent shall be abated for the duration of the interruption in the proportion that the number of days of the disruption bears to the number of days in the Lease Term.

9. Licenses and Taxes.

- A. Taxes and Licenses. Without any deduction or offset whatsoever, Tenant shall be liable for, and shall pay prior to delinquency, all taxes, licensed, excise fees and occupation taxes covering the business conducted on the Premises and all personal property taxes and other impositions levied with respect to all personal property located at the Premises. Tenant shall be responsible for, and shall pay prior to delinquency, all fees, charges, or costs, for any governmental inspections or examinations relating to Tenant's use and occupancy of the Premises, and pay all taxes on the leasehold interest created by this Lease (e.g., leasehold excise taxes).



- B. Contests. Tenant shall have the right to contest the amount and validity of any taxes by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving Tenant of its covenant to pay any such taxes. Landlord shall not be subjected to any liability or for the payment of any costs or expenses in connection with any such proceeding brought by Tenant, and Tenant hereby covenants to indemnify and hold Landlord harmless from any such costs or expenses. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

10. Care of Premises.

- A. General Obligation. Tenant shall take good care of the Premises and shall maintain the same in the condition Tenant requires for its Permitted Use (Section 1.D, 2.D) and in a condition that complies with all applicable laws, statutes, ordinances, building codes and regulations. If Tenant fails to take good care of the Premises, Landlord, at its option, may do so, and in such event, upon receipt of written statements from Landlord, Tenant shall promptly pay the entire cost thereof as an Additional Charge. Landlord shall have the right to enter the Premises for the purpose of inspection and observing the conditions thereof, and the manner of compliance by the Grantee with this section A, and as set forth in Paragraph 22 below. Landlord shall not be liable for interference with light, air or view.
- B. Tenant's Indemnification of Landlord Against Liability under Visual Artists Rights Act of 1990. Tenant shall protect, defend, and hold Landlord 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 (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Tenant or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether Landlord or any other person employed by Landlord 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.



11. Surrender of Premises.

- A. No Holdover. With respect to Tenant's surrender of the Premises on the Expiration Date, time is of the essence. No holdover will be permitted unless Landlord, in its sole discretion, approves the holdover in advance, in writing. In the event Tenant does not surrender the Premises on the Expiration Date, in no circumstance will Tenant be considered a tenant at sufferance; accordingly, Tenant will be liable for any and all costs, damages, expenses, and liabilities incurred by Landlord as a result of Tenant's failure to timely surrender the Premises, including but not limited to attorneys fees for any legal action necessary to remove Tenant from the Premises, construction delay costs, demolition costs, disposal costs, and any liabilities Landlord may incur to third parties as a result of Tenant's wrongful holdover.
- B. General Matters. At the expiration of the Lease Term or earlier termination of the Lease, Tenant shall return the Premises to Landlord in the same condition in which received. Tenant's obligations under this Section shall survive the expiration or termination of this Lease. Tenant shall indemnify Landlord for all damages and losses suffered as a result of Tenant's failure to redeliver the Premises on a timely basis.
- C. Environmental Site Assessment. At the termination of this Lease, Tenant shall conduct an environmental site assessment to verify the environmental condition of the Premises. Tenant shall fully remediate and restore any environmental damage to the Premises caused by the Tenant, and shall be responsible for paying for all costs associated with such damage, including investigation, testing, removal, remediation, transport, disposal, restoration, and natural resources damages costs.
- D. Abandoned Property. Landlord may, at its election, retain or dispose of in any manner any of Tenant's personal property that Tenant does not remove from the Premises on expiration or within ninety (90) days after termination of the Term as allowed or required by the provisions of this Lease by giving ten (10) days notice to Tenant. Title to any such personal property that Landlord elects to retain or dispose of on expiration of such ninety (90) day period shall vest in Landlord. Tenant waives all claims against Landlord for any damage to Tenant resulting from Landlord's retention or disposition of any such personal property. Tenant shall be liable to Landlord for Landlord's reasonable costs for storing, removing and disposing of Tenant's personal property.



12. Indemnification, Waiver & Release.

- A. Tenant's Indemnification. Except as otherwise provided in this section, Tenant shall indemnify, defend (using legal counsel acceptable to Landlord) and save Landlord, its officers, agents, employees and contractors harmless from all claims, suits, losses, damages, fines, penalties, liabilities and expenses (including Landlord's personnel and overhead costs and attorneys' fees and other costs incurred in connection with claims (jointly and severally, "Claims"), regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) of any person or from any actual or alleged loss of or damage to, any property arising out of or in connection with: (i) Tenant's occupation, use or improvement of the Premises, or that of any of its employees, agents, subtenants, contractors, or subcontractors during the Lease Term, (ii) Tenant's breach of its obligations hereunder, (iii) any act or omission of Tenant or any subtenant, licensee, contractor, subcontractor, assignee or concessionaire of Tenant, or of any officer, agent, employee, guest or invitee of any of the same in or about the Premises, or on Tenant's adjoining property, whether leased or owned, during the Lease Term. Tenant agrees that the foregoing indemnity specifically covers actions brought by its own employees. This indemnity with respect to acts or omissions during the Lease Term shall survive termination or expiration of this Lease. The foregoing indemnity is specifically and expressly intended to, constitute a waiver of Tenant's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide Landlord with a full and complete indemnity from claims made by Tenant and its employees, to the extent of their negligence. Tenant's agreement to indemnify, defend, and save Landlord harmless expressly excludes any and all Claims to the extent that they arise out of the negligence of Landlord, its employees, agents, and/or contractors. Tenant shall promptly notify Landlord of casualties or accidents occurring in or about the Premises. **LANDLORD AND TENANT ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF THIS SECTION 12 WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.**
- B. Release of Claims. Tenant hereby fully and completely waives and releases all claims against Landlord for any losses or other damages sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Premises, including but not limited to: (a) any claim relating 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 the Premises or (b) any act, omission or negligence of



any of Tenant's agents, employees, licensees, or invitees but in any case excluding any and all claims to the extent they arise out of the negligence of Landlord, its employees, agents, and/or contractors.

- C. Limitation of Tenant's Indemnification. For as long as RCW 4.24.115 or any successor statute is in effect, all provisions of this Lease pursuant to which Tenant (the "Indemnitor") agrees to indemnify the Landlord (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 the Premises, (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 12C shall automatically and without further act by either Landlord or Tenant be deemed amended so as to remove any of the restrictions contained in this Section 12C no longer required by then applicable law. Nothing in this Section 12C is intended to otherwise alter any other provision of this Lease.

13. Insurance.

- A. Minimum Insurance Coverages and Limits of Liability. Tenant shall maintain, in full force and effect at no expense to Landlord, throughout the entire Lease Term minimum insurance coverages and limits of liability as specified below:

- (1) **Commercial General Liability (CGL)** insurance or equivalent, including:
Airport Liability
Premises/Operations Liability
Products/Completed Operations
Contractual Liability
Stop Gap/Employers Liability
Independent Contractors Liability.

Such insurance must provide minimum limits of liability of \$5,000,000 each occurrence Combined Single Limit bodily injury and property damage (CSL) except Stop Gap or Employers Liability:



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

- (2) **Business Automobile Liability** insurance including coverage for owned, non-owned, leased or hired vehicles as applicable with a minimum limit of \$2,000,000 CSL.
- (3) **Workers' Compensation** insurance securing Tenant's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington.

The limits of liability specified above are minimum limits of liability only for purposes of insurance certification. Such statement of minimum acceptable limits of liability shall not be deemed to constitute a cap or limitation on the liability of Tenant or any of Tenant's insurance providers.

B. General Conditions.

- (1) The term "insurance" shall include, but not be limited to, any form of risk financing such as insurance, reinsurance, self-insurance, capital market solutions or any form of alternative risk financing.
- (2) CGL and Business Automobile insurance shall include "The City of Seattle" as an additional insured to the extent of Tenant's indemnity obligation set out in Section 12 for primary and non-contributory limits of liability for the full limits of liability available to tenant under its insurance program, whether such limits are primary, excess, contingent or otherwise.
- (3) Coverage with licensed property and casualty insurers shall not be canceled without at least 15 days prior written notice to Landlord, except ten days with respect to cancellation for non-payment of premium in accordance with RCW 48.18.290. Otherwise, coverage shall not be cancelled without at least 15 days prior written notice, except ten days with respect to cancellation for non-payment of premium.
- (4) Coverage required hereunder placed with property and casualty insurers shall be subject to approval by Landlord's Risk Manager as to insurer, policy language and coverage, provided that any insurer that is part of



Tenant's company-wide blanket insurance program shall not be subject to disapproval by Landlord.

- C. Evidence of Insurance. On or before the Commencement Date, and thereafter prior to the expiration or renewal date of each such required coverage, Tenant shall cause to be provided by its authorized insurance representatives:
- (1) A certificate of insurance documenting that minimum insurance coverages and limits of liability subject to specified General Conditions are in force.
 - (2) Should Landlord tender a claim for defense and indemnity invoking additional insured status and any Tenant insurer either deny to cover the claim, or provide a defense under a reservation of rights, as soon as practicable Tenant shall cause its authorized insurance representatives to furnish a true and complete certified copy of the relevant insurance policy including all endorsements thereto.
- D. Assumption of Risk. The placement and storage of its personal property in the Premises shall be the responsibility, and at the sole risk, of Tenant.

14. Assignment or Sublease.

Tenant shall not sublet, assign or encumber the whole or any part of the Premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise without the prior written consent of Landlord. The granting of consent to a given transfer shall not constitute a waiver of the consent requirement as to future transfers. In lieu of giving its consent, Landlord shall have the right to terminate the Lease as to the portion of the Premises affected by the action for which Landlord's consent is requested and recover possession thereof from Tenant within twenty (20) days following written notice thereof to Tenant. All costs incurred by Landlord in separating the remainder of the Premises from the area so retaken shall be paid by Tenant as an Additional Charge. Any assignment or sublease, without Landlord's prior written consent, at Landlord's option, shall be void. No assignment or sublease shall release Tenant from primary liability hereunder. Each assignment and sublease shall be by an instrument in writing in form satisfactory to Landlord. If Tenant assigns its interest in this Lease, or sublets the Premises, then the Base Rent shall be increased, effective as of the date of such assignment or subletting, to the rent payable by the assignee or sublessee pursuant to such assignment or sublease; provided, however, in no event shall the base monthly rent, after such assignment or subletting, be less than the Base Rent specified in Section 1.C. If Tenant



assigns its interest in this Lease or sublets the Premises, Tenant shall pay to Landlord any and all consideration received by Tenant for such assignment or sublease. If Tenant is a corporation, then any transfer of this Lease by merger, consolidation or liquidation, or any direct or indirect change, in the ownership of, or power to vote the majority of, Tenant's outstanding voting stock, shall constitute an assignment for the purposes of this Lease. Tenant shall also pay all legal fees and other costs incurred by Landlord in connection with Landlord's consideration of Tenant's request for approval of assignments or subleases, including assignments for security purposes. Notwithstanding the foregoing, Tenant may assign its rights and delegate its duties under this Lease to King County, Washington without the prior written consent of Landlord, provided that King County agrees in writing in said assignment to comply with all terms and conditions of this Lease.

15. Assignment by Landlord.

If Landlord sells or otherwise transfers the Premises, or if Landlord assigns its interest in this Lease, other than an assignment solely for security purposes or a transfer in foreclosure or a deed in lieu of foreclosure, such purchaser, transferee, or assignee thereof shall be deemed to have assumed Landlord's obligations under this Lease arising after the date of such transfer, and Landlord shall thereupon be relieved of all liabilities under this Lease arising thereafter, but this Lease shall otherwise remain in full force and effect. Tenant shall attorn to Landlord's successor.

16. Destruction.

If the Premises are rendered partially or totally untenantable by earthquake or other casualty, either party may elect to terminate this Lease. For the purposes of this Section 16, "untenantable" shall mean either (i) the physical land and surface of the Premises, exclusive of any improvements thereon owned by Tenant, have been so damaged as to prevent Tenant from accessing its improvements (buildings or other structures) or occupying its improvements in order to conduct its permitted operations under this Lease; or (ii) more than fifty percent (50%) of Tenant's improvements (buildings, structures, etc.) have been damaged and rendered unusable for the purposes permitted under this Lease, as determined by the government entity having jurisdiction over such matters. The terminating party shall give notice of its election to terminate by giving written notice thereof within thirty (30) days after the occurrence. In the event of damage by casualty, Tenant shall, at its sole cost and expense, repair all damage to its own personal property and to all improvements that Tenant has made to the Premises to the extent required for Tenant's Permitted Use and in compliance with all applicable laws, statutes, ordinances, building codes and regulations. Landlord shall not be liable to Tenant for damages, compensation or other sums for



inconvenience, loss of business or disruption arising from any repairs to or restoration of any portion of the Premises.

17. Eminent Domain.

- A. Taking. If all of the Premises are taken by Eminent Domain, this Lease shall terminate as of the date Tenant is required to vacate the Premises and all Base Rent and Additional Charges shall be paid to that date. The term "Eminent Domain" shall include the taking or damaging of property by, through or under any governmental or statutory authority, and any purchase or acquisition in lieu thereof, whether the damaging or taking is by government or any other person. If a taking of any part of the Premises by Eminent Domain renders the remainder thereof unusable for the business of Tenant, in the reasonable judgment of Landlord, the Lease may, at the option of either party, be terminated by written notice given to the other party not more than thirty (30) days after Landlord gives Tenant written notice of the taking, and such termination shall be effective as of the date when Tenant is required to vacate the portion of the Premises so taken. If this Lease is so terminated, all Base Rent and Additional Charges shall be paid to the date of termination. Whenever any portion of the Premises is taken by Eminent Domain and this Lease is not terminated, Landlord, at its expense, shall proceed with all reasonable dispatch to restore, to the extent of available proceeds and to the extent it is reasonably prudent to do so, the remainder of the Premises to the condition they were in immediately prior to such taking, and Tenant, at its expense, shall proceed with all reasonable dispatch to restore its personal property and all improvements made by it to the Premises to the same condition they were in immediately prior to such taking. The Base Rent and Additional Charges payable hereunder shall be reduced from the date Tenant is required to partially vacate the Premises in the same proportion that the Rentable Area taken bears to the total Rentable Area of the Premises prior to taking.
- B. Award. Landlord reserves all right to the entire damage award or payment for any taking by Eminent Domain, and Tenant waives all claim whatsoever against Landlord for damages for termination of its leasehold interest in the Premises or for interference with its business. Tenant hereby grants and assigns to Landlord any right Tenant may now have or hereafter acquire to such damages and agrees to execute and deliver such further instruments of assignment as Landlord, from time to time, may request. Tenant, however, shall have the right to claim from the condemning authority all compensation that may be recoverable by Tenant on account of any loss incurred by Tenant in moving Tenant's merchandise,



furniture, trade fixtures and equipment, provided, however, that Tenant may claim such damages only if they are awarded separately in the eminent domain proceeding and not out of or as part of Landlord's damages.

18. Default by Tenant.

- A. Definition. If Tenant violates or breaches or fails to keep or perform any covenant, term or condition of this Lease, or if Tenant or any guarantor of Tenant's obligations under this Lease ("Guarantor") files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Tenant's or Guarantor's assets or if Tenant or Guarantor makes an assignment for the benefit of creditors, or if Tenant or Guarantor is adjudicated insolvent, Tenant shall be deemed in default hereunder (a "Default"). If a Default continues for or is not remedied within three (3) days (or, if no default in the rent is involved, within ten (10) days) after written notice thereof has been given by Landlord to Tenant specifying the Default, then Landlord shall have the following nonexclusive rights and remedies, at its option: (i) to declare the Lease Term hereof ended and to reenter the Premises, take possession thereof, and remove all persons therefrom, for which actions Tenant shall have no claim thereon or hereunder; (ii) to cure such default on Tenant's behalf and at Tenant's sole expense and to charge Tenant for all costs and expenses incurred by Landlord in effecting such cure as an Additional Charge; (iii) without declaring this Lease terminated, to reenter the Premises and to occupy the whole or any part thereof for and on account of Tenant and to collect any unpaid Base Rent and Additional Charges that have become payable or that may thereafter become payable; or (iv) even though it may have reentered the Premises, to elect at any time thereafter to terminate this Lease and all of the rights of Tenant in or to the Premises.
- B. Reentry. If Landlord reenters the Premises under option (iii) of Subsection 18.A, Landlord shall not be deemed to have terminated this Lease or the liability of Tenant to pay any Rent thereafter accruing as it becomes due, or to have terminated Tenant's liability for damages under any of the provisions hereof, by any such reentry or by any action, in unlawful detainer or otherwise, to obtain possession of the Premises, unless Landlord shall have notified Tenant in writing that it has so elected to terminate this Lease; and Tenant shall be liable for and shall reimburse Landlord upon demand for all costs and expenses of every kind and nature incurred in retaking possession of the Premises and all other losses suffered by Landlord as a consequence of Tenant's default. In the event of any entry or taking possession of the Premises, Landlord 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, or dispose of it, at the expense and risk of Tenant.

- C. Termination. If Landlord elects to terminate this Lease pursuant to the provisions of options (i) or (iv) of Subsection 18.A, Landlord may recover from Tenant as damages, the following: (i) the worth, at the time of award, of any unpaid Rent that had been earned at the time of such termination; plus (ii) the worth, at the time of award, of the amount by which the unpaid Rent that would have been earned after termination until the time of award exceeds the amount of the Rent loss Tenant proves could have been reasonably avoided; plus (iii) the worth, at the time of award, of the amount by which the unpaid Rent for the balance of the Lease Term after the time of award exceeds the amount of the Rent loss that Tenant proves could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom, including but not limited to, any costs or expenses incurred by Landlord in retaking possession of the Premises, including reasonable attorneys' fees therefor; 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 (v) 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. As used in items (i) and (ii) of this Subsection 18.C, the "worth, at the time of award" shall be computed by allowing interest at the interest rate specified in Section 4 of this Lease. As used in item (iii) above, the "worth, at the time of award" shall be computed by using the then-applicable discount rate quoted by the Federal Reserve Bank of San Francisco or its successor. For purposes of this Section 18 only, the term "Rent" shall be deemed to be the Base Rent required to be paid by Tenant pursuant to the terms of this Lease.
- D. Adequate Security. If a petition is filed by or against Tenant or Guarantor under any provision of the Bankruptcy Code or successor act, Tenant shall post a cash bond with Landlord equal to six (6) months' Base Rent and Additional Charges, to provide Landlord with adequate security for Tenant's performance of its obligations under this Lease.



19. Landlord's Remedies Cumulative; Waiver.

Landlord's rights and remedies hereunder are not exclusive, but cumulative, and Landlord's exercise of any right or remedy due to a default or breach by Tenant shall not be deemed a waiver of, or alter, affect or prejudice any other right or remedy that Landlord may have under this Lease or by law or in equity. Neither the acceptance of rent nor any other act or omission of Landlord at any time or times after the happening of any event authorizing the cancellation or forfeiture of this Lease shall operate as a waiver of any past or future violation, breach or failure to keep or perform any covenant, agreement, term or condition hereof or to deprive Landlord of its right to cancel or forfeit this Lease, upon the written notice provided for herein, at any time that cause for cancellation or forfeiture may exist, or be construed so as to estop Landlord at any future time from promptly exercising any other option, right or remedy that it may have under any term or provision of this Lease.

20. Default by Landlord.

- A. Landlord's Cure Period. Landlord shall be in default if Landlord fails to perform its obligations under this Lease within sixty (60) days after its receipt of notice of nonperformance from Tenant; provided, that if the default cannot reasonably be cured within the sixty (60) day period, Landlord shall not be in default if Landlord commences the cure within the sixty (60) day period and thereafter diligently pursues such cure to completion.
- B. Remedies. In the event of Landlord default that is not cured within the cure period, the Tenant shall be entitled to all remedies at law and equity that may be permitted from time to time by the laws of the State of Washington.

21. Attorneys' Fees.

Each party will bear its own attorneys fees and costs if suit is brought or the services of an attorney are retained with respect to any dispute under this Lease.

22. Access by Landlord.

Landlord and its agents shall have the right to enter the Premises at any time to examine the same, and to show them to prospective purchasers, lenders or tenants, to inspect the Premises, to do environmental monitoring and to make such alterations, improvements, or



additions to the Premises as Landlord may deem necessary or desirable. Nothing contained herein shall be construed to impose upon Landlord any duty of repair or other obligation not specifically stated in this Lease. Landlord also reserves the right to enter the Premises at all reasonable times for the purpose of inspection and observing the conditions thereof, and the manner of compliance by the Grantee with the terms and conditions of this Lease as well as the right to enter the Premises at all reasonable times to perform prudent property management functions as it sees fit. Landlord shall make reasonable efforts to contact Tenant prior to such entry; however, no prior notice shall be required in the case of emergency.

23. Quiet Enjoyment.

If Tenant fully complies with and promptly performs all of the terms, covenants and conditions of this Lease on its part to be performed, it shall have quiet enjoyment of the Premises throughout the Lease Term, subject, however, to matters of record on the day hereof and to those matters to which this Lease may be subsequently subordinated.

24. Notices.

Any notice, demand or request required hereunder shall be given in writing to the party's address set forth in Subsection 1.F hereof by any of the following means: (a) personal service; (b) commercial or legal courier; or (c) registered or certified, first class mail, postage prepaid, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner as above provided. Notices shall be deemed to have been given upon the earlier of actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt, or the courier's receipt, except in the event of attempted delivery during the recipient's normal business hours at the proper address by an agent of a party or by commercial or legal courier or the U.S. Postal Service but refused acceptance, in which case notice shall be deemed to have been given upon the earlier of the day of attempted delivery, as evidenced by the messenger's affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused, or on the day immediately following deposit with such courier or, if sent pursuant to subsection (c), forty-eight (48) hours following deposit in the U.S. mail.

25. Successors or Assigns.

All of the terms, conditions, covenants and agreements of this Lease shall extend to and be binding upon Landlord, Tenant and, subject to the terms of Section 15, their respective heirs,



administrators, executors, successors and permitted assigns, and upon any person or persons coming into ownership or possession of any interest in the Premises by operation of law or otherwise.

26. Tenant Authority and Liability.

Tenant warrants that this Lease has been duly authorized, executed and delivered by Tenant, and that Tenant has the requisite power and authority to enter into this Lease and perform its obligations hereunder. Tenant covenants to provide Landlord with evidence of its authority and the authorization of this Lease upon request. All persons and entities named as Tenant herein shall be jointly and severally liable for Tenant's liabilities, covenants and agreements under this Lease.

27. Brokers' Commission.

In the event that Tenant has been represented by a broker with respect to this Lease, Tenant will be responsible for any broker's fees and commissions and will defend, indemnify, and hold Landlord harmless from all claims, suits, losses, damages, liabilities and expenses made or asserted by any broker arising out of or in connection with Tenant's entering into this Lease.

28. Partial Invalidity.

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

29. Recording.

Tenant shall not record this Lease without the prior written consent of Landlord. However, upon request of either party, both parties shall execute a memorandum of this Lease, in a form customarily used for such purpose of recording. The memorandum shall describe the parties, the Premises and the Lease Term and shall incorporate the other terms of this Lease by reference.

30. Force Majeure.



Neither party shall be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such is due to any cause beyond its reasonable control, including, but not limited to an act of Nature, act of civil or military authority, fire, flood, windstorm, earthquake, strike or labor disturbance, civil commotion, delay in transportation, governmental delay, or war, but the foregoing shall not apply to Tenant's obligation hereunder to pay money, including but not limited to Base Rent and Additional Charges as required under Section 3 of this Lease.

31. Counterparts.

This Lease may be executed by the parties in counterparts, which, taken together, constitute the entire Lease.

32. Headings.

The section headings used in this Lease are used for purposes of convenience and do not alter in any manner the content of the sections.

33. Context.

Whenever appropriate from the context, the use of any gender shall include any other or all genders, and the singular shall include the plural, and the plural shall include the singular.

34. Execution by Landlord and Tenant.

Landlord shall not be deemed to have made an offer to Tenant by furnishing Tenant with a copy of this Lease with particulars inserted. No contractual or other rights shall exist or be created between Landlord and Tenant until all parties hereto have executed this Lease.

35. Time of Essence; Time Calculation Method.

Time is of the essence with respect to this Lease. Except as otherwise specifically provided, any reference in this Lease to the word "day" means a "calendar day;" provided, that if the final day for any action required hereunder is a Saturday, Sunday or City holiday, such action shall not be required until the next succeeding day that is not a Saturday, Sunday or City holiday. Any reference in this Lease to the word "month" means "calendar month."

36. Entire Agreement; Applicable Law.



John Bresnahan
SCL Boeing GSP Flume Lease ORD ATT 1
June 18, 2012
Version #1

This Lease and the Exhibits attached hereto, and by this reference incorporated herein, set forth the entire agreement of Landlord and Tenant concerning Tenant's lease of the Premises, and there are no other agreements or understanding, oral or written, between Landlord and Tenant concerning the lease of the Premises. Any subsequent modification or amendment of this Lease shall be binding upon Landlord and Tenant only if reduced to writing and signed by them. This Lease shall be governed by, and construed in accordance with the laws of the State of Washington.

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

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

LANDLORD:

TENANT:

**THE CITY OF SEATTLE
SEATTLE CITY LIGHT**

THE BOEING COMPANY

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



John Bresnahan
SCL Boeing GSP Flume Lease ORD ATT 1
June 18, 2012
Version #1

STATE OF WASHINGTON)
) ss. (Acknowledgement for Landlord, The City of Seattle)
COUNTY OF KING)

On this ____ day of _____, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of **SEATTLE CITY LIGHT**, a department of **THE CITY OF SEATTLE**, the municipal corporation that executed the foregoing lease as Landlord, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the purposes therein mentioned, and on oath stated that _____ was authorized to execute said instrument.

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

(Notary seal)

Signature: _____

Print name: _____

Notary Public in and for the State of Washington

Residing at: _____

My commission expires: _____



John Bresnahan
SCL Boeing GSP Flume Lease ORD ATT 1
June 18, 2012
Version #1

STATE OF _____)
) ss. (Acknowledgement for Tenant, The Boeing Company)
COUNTY OF _____)

On this _____ day of _____, 2012, before me, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of **THE BOEING COMPANY**, the corporation that executed the foregoing lease as tenant, and acknowledged to me that _____ signed the same as the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and that _____ was authorized to execute said Lease for **THE BOEING COMPANY**.

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

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

(Notary seal)

Signature: _____

Print name: _____

Notary Public in and for the State of _____

Residing at: _____

My commission expires: _____



Exhibit A Legal Description

That portion of Section 29, Township 24 North, Range 4 East, W.M., described as follows:

Commencing at the quarter corner common to Sections 28 and 29, said Township and Range, from which the line common to said Sections bears South 00°49'25" West;

THENCE North 50°57'59" West 1,400.00 feet to an angle point on the northerly meander line of the filled-in bed of the Duwamish River, said point being monumented with a steel railroad rail, being the TRUE POINT OF BEGINNING of this legal description;

THENCE along said meander line South 52°15'43" West 287.04 feet to an existing steel railroad monument;

THENCE along said meander line South 33°27'33" West a distance of 178.90 feet;

THENCE along said meander line South 34°34'45" West a distance of 91.16 feet;

THENCE along said meander line South 15°31'13" West a distance of 54.00 feet;

THENCE along said meander line South 01°08'41" East a distance of 161.94 feet;

THENCE along said meander line South 04°09'14" East a distance of 97.67 feet;

THENCE along said meander line South 17°15'13" West a distance of 79.14 feet to the northerly margin of South Myrtle Street;

THENCE along said northerly margin North 88°51'14" East a distance of 83.27 feet;

THENCE leaving said northerly margin North 13°23'54" East a distance of 338.21 feet;

THENCE North 30°09'39" East a distance of 16.58 feet;

THENCE North 29°23'05" East a distance of 223.05 feet to an existing steel railroad monument;

THENCE North 49°49'22" East a distance of 429.98 feet;

THENCE North 69°35'42" East a distance of 221.07 feet;

THENCE North 38°44'51" West a distance of 361.71 feet;

THENCE South 00°17'18" West a distance of 240.00 feet;

THENCE South 70°51'46" West a distance of 47.37 feet;

THENCE South 45°54'29" West a distance of 191.85 feet to the TRUE POINT OF BEGINNING and the terminus of this legal description.



Exhibit B
 Survey Map

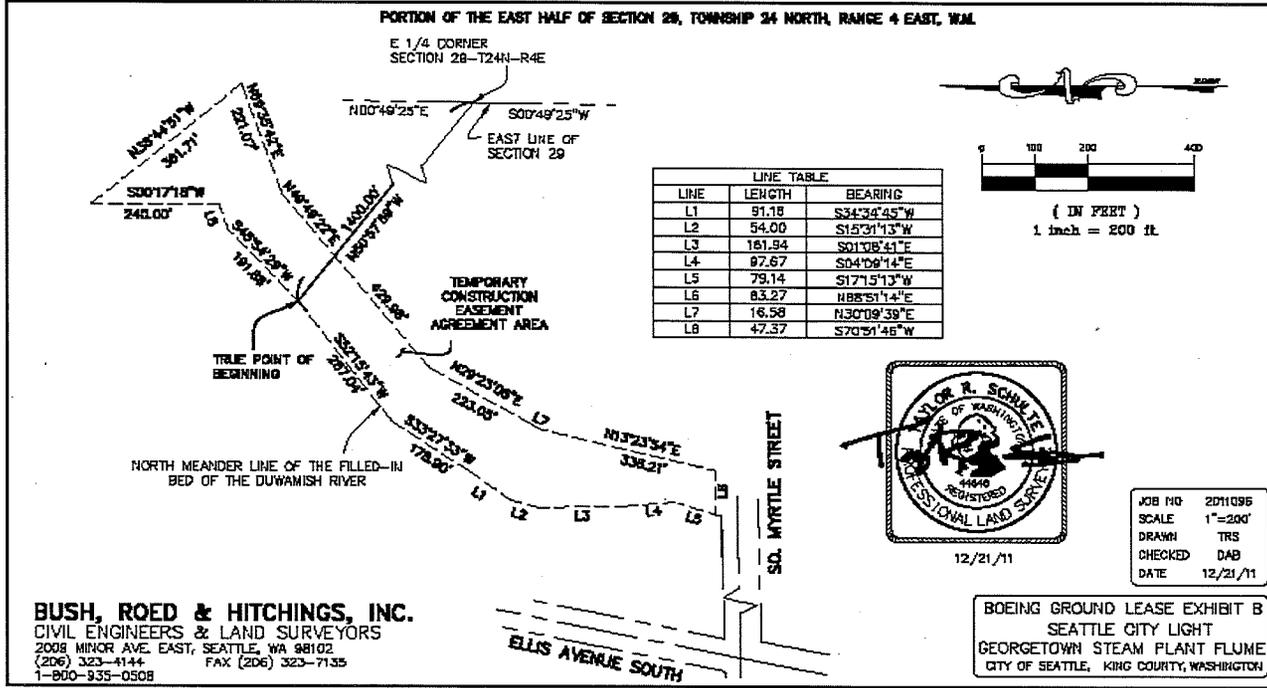


Exhibit C
Future Withdrawal Area



**Georgetown Steam Plant Flume Property ~ 2009 Aerial Photo
Area to be Excluded from Long-Term Lease
Required by City for GTSP Parking and Access**

Exhibit D



Structures on Premises on Date of Lease



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle City Light	Lynn Best/386-4586	Calvin Chow/684-4652

Legislation Title:

AN ORDINANCE relating to the City Light Department; declaring certain property rights surplus to utility needs; authorizing the Superintendent to execute a long-term ground lease with The Boeing Company for the use and occupancy of a portion of the City's Georgetown Steam Plant Flume Property; and ratifying and confirming certain prior acts.

Summary of the Legislation:

This legislation declares certain real property rights surplus to utility needs; and authorizes the Superintendent or his designee to execute a 19-year ground lease, with two optional five-year extension periods with The Boeing Company for the use and occupancy of a portion of the City's Georgetown Steam Plant Property.

Background:

The City of Seattle is the owner of a certain real property, King County Tax Parcel Number 700670-0570, commonly known as the Georgetown Steam Plant Flume Property (the Flume Property). The City, the Boeing Company, and King County own the surrounding parcels, containing the Georgetown Steam Plant itself, Boeing's airplane manufacturing facilities and the King County Airport, respectively.

The Boeing Company has historically leased a portion of the Flume Property from the City, under the following leases:

1. Two leases dated May 15, 1953, authorized by Ordinance 81931, expired December 31, 1992; and
2. One lease dated October 1, 1955, authorized by Ordinance 84344, expired December 31, 1992.

Seattle City Light and Seattle Public Utilities completed a cleanup of contamination on the Flume Property in September, 2009 at a cost of \$2.5 million, as part of the City's source control efforts for the Duwamish Waterway Slip 4 Superfund Early Action Area Remediation Project.



John Bresnahan
SCL Boeing GSP Flume Lease FISC
June 18, 2012
Version #1

Within the last year, as an additional EPA-required source control effort for the Duwamish Waterway Slip 4 cleanup, and under a temporary construction easement granted by City Light, Boeing constructed a new North Boeing Field Drainline through the City's Flume Property. Boeing is purchasing a permanent easement from the City for this drainline, to be authorized under separate legislation.

The renewal of the three expired leases was delayed while the City and Boeing resolved liability issues for the Flume Property cleanup, and later during negotiations for Boeing's construction of the new North Boeing Field Drainline through the Flume Property.

The liability issues have now been resolved and construction of the new North Boeing Field Drainline completed. Boeing and the City Light would now like to enter into a new ground lease agreement for the Flume Property, for a 19-year term, with two optional five-year extension periods. The 19-year term coincides with the expiry of Boeing's leases with King County for various properties in the vicinity.

X This legislation has financial implications.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2012 Revenue	2013 Revenue
City Light Fund 4100	City Light	Rent Payments	\$250,764	\$250,764
TOTAL			\$250,764	\$250,764

Revenue/Reimbursement Notes: Yearly rent to be paid by the Boeing Company. Rent escalates every 3 years by a percentage determined by the cumulative change in CPI for the Seattle/Tacoma/Bremerton area as reported by the U.S. Department of Labor.

Other Implications:

a) Does the legislation have indirect financial implications, or long-term implications?

Yes. The Lease will have to be carefully monitored for compliance with terms, for timely payments, for timely rent escalations, and for the possibility that at termination, the City might own some or all of the buildings now on the property that are currently owned by Boeing.



b) What is the financial cost of not implementing the legislation?

The City will forego a reliable income stream from an otherwise non-productive City property.

c) Does this legislation affect any departments besides the originating department?

No.

d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?

None.

e) Is a public hearing required for this legislation?

Yes.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

g) Does this legislation affect a piece of property?

Yes. A map of the property is shown as Attachment A to this Fiscal Note.

h) Other Issues:

None.

List attachments to the fiscal note below:

Attachment A: Map, Boeing Lease Area



Attachment A



Georgetown Steam Plant Flume Property
Boeing Lease Area





City of Seattle
Office of the Mayor

July 31, 2012

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

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that will authorize Seattle City Light to enter into a 19-year lease, with two 5-year optional extensions, with The Boeing Company for their use and occupancy of a portion of the City's Georgetown Steam Plant Flume Property. This lease replaces three 40-year leases that have now expired, and reflects the successful conclusion of negotiations between City Light and Boeing concerning environmental liability, source control and rent charges.

City Light and Seattle Public Utilities recently completed a \$2.5 million cleanup of contamination on the Flume Property, and Boeing recently constructed the North Boeing Field Drainline through the City's Property, all part of the source control efforts for the Duwamish Waterway Slip 4 Superfund Early Action Area Remediation Project.

The lease requires Boeing to pay Seattle City Light the fair market value of \$20,897 per month for use of this property, with regular rent adjustments during the term of the lease. This lease will result in a positive source of revenue from an otherwise unused property.

This legislation will require a public hearing pursuant to RCW 35.94.040. Thank you for your consideration of this legislation. Should you have questions, please contact Jim Baggs at 684-3243.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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

Tel (206) 684-4000
Fax (206) 684-5360
TDD (206) 615-0476
mike.mcgin@seattle.gov



STATE OF WASHINGTON – KING COUNTY

--SS.

288889
CITY OF SEATTLE, CLERKS OFFICE

No. 123961,962,963,964,965

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.

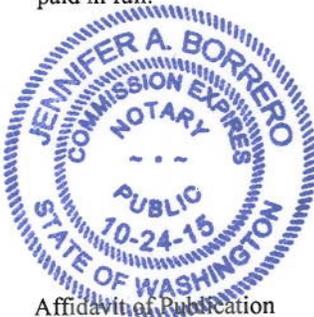
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT: TITLE ONLY ORDINANCE

was published on

10/01/12

The amount of the fee charged for the foregoing publication is the sum of \$111.60 which amount has been paid in full.



[Signature]
Subscribed and sworn to before me on

[Signature]
10/01/2012

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

Title Only Ordinance

The full text of the following legislation, passed by the City Council on September 4, 2012, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 123961

AN ORDINANCE relating to the redevelopment of Yesler Terrace by the Housing Authority of the City of Seattle; and authorizing the Mayor to execute a Cooperative Agreement with the Housing Authority of the City of Seattle.

ORDINANCE NO. 123962

AN ORDINANCE relating to redevelopment at Yesler Terrace, designating certain future proposed projects as planned actions pursuant to the State Environmental Policy Act, through use of a Planned Action Ordinance, and establishing certain requirements for these planned actions.

ORDINANCE NO. 123963

AN ORDINANCE related to land use and zoning, amending various chapters of Title 23 of the Seattle Municipal Code (SMC) to incorporate new zoning provisions for Yesler Terrace; adding a new SMC Chapter 23.75 to establish use provisions and development standards for the new Master Planned Community -- Yesler Terrace (MPC-YT) zone, including an affordable housing incentive program as authorized by RCW 36.70A.540; amending SMC Section 25.05.800 to establish limits for categorical exemptions from environmental review in the MPC-YT zone; amending the Official Land Use Map, SMC Chapter 23.32, to rezone properties in the Yesler Terrace neighborhood from LR3 and DMR/C 65/65-85 to MPC-YT; approving and adopting Yesler Terrace Master Planned Community Design Guidelines; revising design review and platting procedures for the MPC-YT zone; and revising procedures for project review under a planned action ordinance; all to implement the Comprehensive Plan and to allow redevelopment of Yesler Terrace to achieve a mix of residential, commercial, and other uses; appropriate urban density; and more affordable housing, environmental sustainability, and publicly accessible open space than would be likely to result from development under existing zoning.

ORDINANCE NO. 123964

AN ORDINANCE relating to the City Light Department; declaring certain real property rights surplus to utility needs; authorizing the Superintendent to grant an easement to The Boeing Company for a stormwater drain pipe over a portion of the City's Georgetown Steam Plant Flume Property; accepting payment for the true and full value of the easement; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123965

AN ORDINANCE relating to the City Light Department; declaring certain property rights surplus to utility needs; authorizing the Superintendent to execute a long-term ground lease with The Boeing Company for the use and occupancy of a portion of the City's Georgetown Steam Plant Flume Property; and ratifying and confirming certain prior acts.

Date of publication in the Seattle Daily Journal of Commerce, October 1, 2012.

10/1(288889)