

AA-01-10891
IC 01-17-05807
Parcels 7-261, 7-262, 7-266, 7-291, 7-292, 7-295,
7-0296, 7-300, 7-302, 7-303, 7-304 and 7-306
Fed. Aid Numbers I-5-3(59)168, I-90-1(184)
SR 5, Seattle Freeway: Plum Street to Jackson Street

A I R S P A C E L E A S E

THIS IS AN AIRSPACE LEASE (**Lease**) made and entered into between the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, (**WSDOT**), and CITY OF SEATTLE, acting by and through its Finance and Administration Services Department, (**TENANT**) a Municipal Corporation of the State of Washington.

RECITALS

- A. The land and premises to be leased are not presently needed for highway purposes.
- B. WSDOT is granted authority to lease property under RCW 47.12.120, and WSDOT deems it to be in the public interest to enter into this Lease.
- C. WHEREAS, the TENANT currently occupies the property to be leased herein pursuant to (1) Agreement Lease for Parking Facilities No. 7-518, dated February 23, 1968, and/or (2) Lease Agreement No. AA-1-10891, dated February 2, 1999, IC #1-17-05807; it is the intent of the parties to terminate these leases and supersede all prior leases with this Lease.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, IT IS MUTUALLY AGREED THAT:

1. PREMISES. WSDOT does hereby lease to the TENANT and the TENANT does hereby lease from WSDOT, the premises shown as Lot A and Lot B, located in the City of Seattle and known to be a portion of the highway right of way pursuant to the plan entitled SR 5, Seattle Freeway: Plum Street to Jackson Street, sheets 5 and 7 of 8 sheets, approved August 7, 1962, and as shown hachured on **Exhibit A**, attached hereto and by this reference incorporated herein (the **Premises**).

The approximate area of the Premises is 125,442 square feet, or 2.88 acres. The vertical limit of the Premises is a plane Twelve (12) feet below and parallel to the underside of the SR 5 bridge deck located above the Premises. The TENANT shall have no right to use the space above the vertical limit of the Premises without the WSDOT's prior written approval.

2. TERM. The term of this Lease shall be for Five (5) years, commencing RETROACTIVELY on March 1, 2010.

3. RENEWAL. This Lease may be renewed by the TENANT for Three (3) additional Five (5) year periods (**Renewal Period**); Provided, that: (A) the TENANT is not in default and has not been in default during the term of this Lease; (B) there is no WSDOT need for the Premises; (C) TENANT's continued use under this Lease does not impair the safety or operation of WSDOT's highway or facility, as solely determined by WSDOT; and (D) the terms and conditions of this Lease conform to then existing WSDOT policies or practices, laws, regulations and contracts, or provided TENANT is willing to amend this Lease to bring it into compliance with such policies, practices, laws, regulations, and contracts. The Renewal Period shall be on the same terms and conditions as set forth herein, except as modified by any changes in policies, practices, laws, regulations or contracts and as reflected in a written amendment signed by both parties. TENANT shall give notice of its intent to renew this Lease for the Renewal Period at least Ninety (90) calendar days, but not more than Six (6) months, prior to the expiration of this Lease, or any extension thereof.

4. HOLDING OVER. In the event the TENANT shall hold over or remain in possession of the Premises with the consent of WSDOT after the expiration of the stated term of this Lease, or any written extension or renewal of the term of this Lease, such holding over or continued possession shall create a tenancy from month-to-month only, upon the same terms and conditions as are set forth herein; Provided, that WSDOT or TENANT may, in addition to other remedies provided elsewhere herein, terminate this Lease for any reason with not less than Twenty (20) calendar days prior written notice.

5. RENT.

A. WSDOT acknowledges receipt of all rent due and owing, including retroactive rent increase from March 1, 2010, from the TENANT through February 2012.

B. The TENANT covenants and agrees to pay rent for the Premises to WSDOT in advance on or before the 1st day of each calendar month (**Due Date**) during the entire term of this Lease. Beginning on the Commencement Date stipulated herein, rent shall be paid at the initial rate, subject to adjustment herein provided, of Fourteen Thousand One Hundred

Seventy Four and 95/100 (\$14,174.95) per month for rent, payable at the address designated under **Section 7**. In no event shall the rent be less than this initial amount.

6. RENT ADJUSTMENTS. WSDOT may, at its option, adjust the monthly rent every year by either (A.) the percentage change that occurred during the preceding calendar year in the U.S. Consumer Price Index for All Urban Consumers (U.S. CPI-U), using the data as published by the United States Department of Labor's Bureau of Labor Statistics, or its successor; Provided, that in the event such index is discontinued the parties hereto shall select and use for such adjustment purpose, a similar index that reflects consumer price changes generally recognized as an authority by financial and insurance institutions (By way of illustration only, if the Base CPI is 190 and the CPI figure for the fourth calendar month before the adjustment year is 195, then the rent for that year shall be increased by 2.63 percent); or (B.) in an amount that reflects changes in comparable rents as identified in an appraisal/market evaluation conducted by WSDOT. WSDOT shall give not less than Thirty (30) days prior written notice to TENANT that a Rent Adjustment has been made. This notice shall include the amount of the adjusted Rent and the date the new Rent is to become effective. Failure or refusal by the TENANT to pay the adjusted rental rate shall constitute a default of this Lease for which WSDOT may terminate with not less than Five (5) calendar days prior written notice.

7. RENT PAYMENTS PAYABLE TO: Washington State Department of Transportation. Mail payments to:

DEPARTMENT OF TRANSPORTATION (Mailing Address)
Attn.: Property Management Section Manager
P.O. Box 47339
Olympia, WA 98504-7338

DEPARTMENT OF TRANSPORTATION (Physical Address)
Attn.: Property Management Section Manager
243 Israel Road S.E., Suite 101
Tumwater, WA 98501

8. CHARGE FOR LATE PAYMENT, NSF CHECKS.

A. If any sums payable to WSDOT under this Lease are not received by the Fifth (5th) day following its Due Date, TENANT shall pay WSDOT, in addition to the amount due, for the cost of collecting and handling such payment, an amount equal to the greater of One Hundred and no/100 Dollars (\$100.00) or Five Percent (5%) of the delinquent amount. In addition, all delinquent sums payable by TENANT to WSDOT and not paid within Five (5) calendar days of the due date shall, at WSDOT's option, bear interest at the rate of Twelve

Percent (12%) per annum, or the highest rate of interest allowable by law, whichever is greater; provided that if the highest rate allowable by law is less than Twelve Percent (12%), interest charged hereunder shall not exceed that amount. Interest on all delinquent amounts shall be calculated from the original Due Date to the date of payment. Also there shall be a charge for any check returned uncollectable in accordance with WAC 468-20-900. WSDOT and TENANT agree that such charges represent a fair and reasonable estimate of the costs incurred by WSDOT by reason of late payments and uncollectable checks.

B. WSDOT's acceptance of late payment charges and/or any portion of the overdue payment shall in no event constitute an accord and satisfaction, compromise of such payment, or a waiver of TENANT's default with respect to such overdue payment, nor prevent WSDOT from exercising any other rights and remedies granted in this Lease.

C. When a delinquency exists, any payments received will be applied first to the late payment charge and late payment fees, next to delinquent rent, and any balance remaining to the current month's rent and LET, if applicable.

9. TERMINATION BY WSDOT.

A. WSDOT may terminate this Lease, without penalty or further liability as follows:

(1) Upon not less than Five (5) calendar days prior written notice to TENANT, if TENANT fails to cure a default for payment of amounts due under this Lease within that Five (5) day period;

(2) Upon not less than Thirty (30) calendar days prior written notice to TENANT, if TENANT defaults, other than for non payment of rent, and fails to cure such default within that Thirty (30) calendar day period, or such longer period, as may be reasonably determined by WSDOT, if TENANT is diligently working to cure the default;

(3) Immediately, upon written notice, if WSDOT is required by court order, by legislative action, or by a governmental agency having jurisdiction to take some action, which would effectively prohibit TENANT's use of the Premises;

(4) Immediately, upon written notice, if a receiver is appointed to take possession of TENANT's assets, the TENANT makes a general assignment for the benefit of creditors, or the TENANT becomes insolvent or takes or suffers action under the Bankruptcy Act;

(5) Upon not less than Thirty (30) calendar days prior written notice for any reason unless an emergency exists, as determined by WSDOT, then immediately, if WSDOT determines that it is in the best interest of WSDOT to terminate this Lease; or

(6) Upon not less than Thirty (30) calendar days prior written notice if the Premises has been abandoned, in WSDOT's sole judgment, for a continuous period of Ninety (90) calendar days.

B. Waiver or acceptance of any default of the terms of this Lease by WSDOT shall not operate as a release of the TENANT's responsibility for any prior or subsequent default.

C. If TENANT defaults on any provision in this Lease, such as, but not limited to, the timely payment of rent, Three (3) times within a Twelve (12) month period, the third default shall be deemed "non-curable" and this Lease may be terminated by WSDOT on not less than Thirty (30) calendar days written notice.

10. TERMINATION BY TENANT. TENANT may terminate this Lease without penalty or further liability as follows:

A. Upon not less than Thirty (30) calendar days prior written notice for any reason;

B. Upon not less than Thirty (30) calendar days prior written notice, if WSDOT defaults and fails to cure such default within that Thirty (30) calendar day period, or such longer period, as may be reasonably determined by TENANT, if WSDOT is diligently working to cure the default; or

C. Immediately, upon written notice, if in TENANT's judgment the Premises is destroyed or damaged so as to substantially and adversely affect TENANT's authorized use of the Premises.

11. REIMBURSEMENT OF PREPAID RENT. All rent for the Premises prepaid beyond the effective termination date will be retained by WSDOT; Except, that if WSDOT terminates this Lease as provided in **Section 9.A (5)** above, or if TENANT terminates pursuant to **Section 10.B** or **C** above, TENANT shall be entitled to a pro rata refund of any rent prepaid beyond the effective termination date.

12. NONAPPLICABILITY OF RELOCATION ASSISTANCE. The TENANT acknowledges that this Lease does not at any time entitle the TENANT to assistance under the Uniform Relocation and Real Property Acquisition Policy (Ch. 8.26 RCW).

13. ENCUMBRANCES.

A. It is expressly understood that the TENANT shall not encumber the Premises. The TENANT and WSDOT acknowledge and agree that the TENANT may encumber the TENANT's leasehold interest and/or the TENANT improvements to be constructed upon the Premises by TENANT (but not WSDOT's real property or improvements attached thereto) for financing purposes. Any encumbrance is void without the prior written consent of WSDOT. If the TENANT intends to secure financing, the TENANT must secure the financing from a legal source (hereinafter called the **Lender**) and must provide WSDOT with written notice of the Lender's name and address within Thirty (30) calendar days of obtaining financing. As a prerequisite to obtaining the written consent of WSDOT to allow the Lender to assume the interest of the TENANT in this Lease, the Lender must agree to provide WSDOT not less than Thirty (30) calendar days prior written notice in the event of a TENANT default on the loan.

B. In the event the TENANT defaults in performance of any obligation under this Lease and the Lender requirements in **Section 13.A** have been complied with, WSDOT will not terminate the Lease because of such default unless and until WSDOT gives not less than Thirty (30) calendar days prior written notice of the default to the Lender. Upon the giving of such notice of default and where the default is curable by payment of money, the Lease shall terminate if the Lender fails to cure the default within the time period provided in the notice. If the default is not curable by money, Lender must (1) cause the commencement of and thereafter diligently pursue to completion steps and proceedings for the exercise of power of sale in the manner provided by law (foreclosure) and (2) cause and perform all of the covenants and conditions of this Lease requiring the expenditure of money by the TENANT until such time as the improvements on the Premises shall be sold in the manner provided by law (foreclosed). If the Lender fails or refuses to comply with any and all of the conditions in this section, WSDOT shall be released from the covenant of forbearance and this Lease shall terminate without further notice.

C. In the event of a foreclosure or trustee's sale of the Lender's security interest pursuant to the laws of the State of Washington, the purchaser at said sale, be it the Lender or another, shall succeed to all of the right, title and interest of the secured party. The Lender may, with WSDOT's consent, receive a deed (a quitclaim deed of all interest of the TENANT) or assignment of the TENANT's interest in lieu of a foreclosure.

14. USE OF PREMISES.

A. TENANT's use of the Premises is limited to equipment and material storage and for parking of operable vehicles, including TENANT's official vehicles, TENANT's employee vehicles, and vehicles of TENANT invitees, working in or on official TENANT

business on the Premises. For the purpose of this Lease, the term “operable vehicles” shall mean vehicles capable of being driven from the Premises under their own power on Ten (10) minutes notice. No other use shall be permitted without the prior written approval of WSDOT. The TENANT shall obtain WSDOT’s prior written approval for any fee or charge to members of the general public that the TENANT authorizes to use the parking lots or equipment and material storage areas on the Premises; no such approval shall be required should the TENANT impose or collect a fee or charge from a TENANT employee in connection with the parking of any operable vehicle on the Premises or the use of the equipment and material storage areas. TENANT agrees that should it make the Premises available to the general public for event parking or parking unrelated to TENANT employee parking or the storage of equipment and material and should TENANT charge a fee for such parking, TENANT’s charges or fees shall be at the then prevailing rates in the general area of the Premises for such use. TENANT further agrees that the WSDOT, at WSDOT’s sole option, may share in any charges or fees collected by the TENANT for the use of the Premises. Should WSDOT decide to share in the monies collected as identified herein, WSDOT shall set the amount of said share, and its decision shall be final and binding. The TENANT shall pay said share to WSDOT within Thirty (30) calendar days of WSDOT’s demand. TENANT’s occupancy or use of the Premises and improvements, if any, shall not interfere with the use, safety, appearance, nor the enjoyment of the highway facility, nor produce fumes, vapors, odors, drippings, droppings, or discharge of any kind.

B. In using the Premises, the TENANT shall comply with all policies and regulations, including, but not limited to Chapter 47.42 RCW et seq. and WAC 468-66 et seq., heretofore adopted or hereafter promulgated by WSDOT relative to the location, operation, and maintenance of improvements located on the Premises.

C. In using the Premises, it is expressly agreed that TENANT shall (1) comply with all applicable federal, state and local laws, ordinances, and regulations, including environmental requirements that are in force or which may hereafter be in force, and (2) secure all necessary permits and licenses for the uses of the Premises authorized in this Lease.

D. Access to the Premises is via north-bound Airport Way South and South Royal Brougham Way. Further, direct access to ramps or traveled lanes of limited access highways is not permitted.

E. TENANT shall not commit or allow to be committed any waste upon the Premises nor allow any public or private nuisance.

F. No new construction by the TENANT is permitted on the Premises for the duration of this Lease without WSDOT prior written approval.

15. SIGNS, DISPLAY, OR ADVERTISING DEVICES. Signs, display, or advertising devices are not permitted on the Premises unless they comply with Ch. 47.42 RCW and Ch. 468-66 WAC and are completely detailed on a separate plan sheet which has been approved in writing by WSDOT and incorporated by reference into this Lease. Such advertising shall only indicate ownership and type of on-Premises activities.

16. FENCES. Any WSDOT-owned fences in place at the time of execution of this Lease or relocated to separate the Premises from the traveled roadway will be maintained by WSDOT for the duration of the Lease. Nothing is to be attached to WSDOT's fence without WSDOT's prior written approval. If any fence is damaged as a result of the TENANT's activities, the TENANT will immediately repair such damage at its cost and to the WSDOT's satisfaction; Provided, that if TENANT fails to complete said repair immediately WSDOT may complete the repair and the TENANT agrees to reimburse WSDOT for the cost of said repair within Thirty (30) calendar days of the date of WSDOT's invoice.

17. CONDITION OF THE PROPERTY. WSDOT and TENANT acknowledge that they have jointly examined the Premises and the TENANT accepts said Premises in its present condition as of the Commencement Date of this Lease. WSDOT does not warrant the use of the Premises for any particular purpose.

18. MAINTENANCE. The TENANT shall perform or cause to be performed at its expense all maintenance of the Premises, including improvements thereon, if any. Such maintenance will include, but not be limited to, keeping the Premises in good condition, both as to safety and appearance, and in a manner so as to assure the improvements and condition of the Premises do not adversely affect the highway safety and appearance and that such maintenance will cause no interference with the highway use, all to the satisfaction of WSDOT.

19. ENVIRONMENTAL REQUIREMENTS.

A. TENANT represents, warrants and agrees that it will conduct its activities on and off the Premises in compliance with all applicable Environmental Laws. As used in this Lease, the term "Environmental Laws" means all federal, state and local environmental laws, rules, regulations, ordinances, judicial or administrative decrees, orders, decisions, authorizations or permits, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. seq., the Clean Air Act, 42 U.S.C. § 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq., the Oil Pollution Control Act, 33 U.S.C. § 2701, et seq., and Washington or any other comparable local, state, or federal statute or ordinance pertaining to the environment or natural

resources and all regulations pertaining thereto, including all amendments and/or revisions to said laws and regulations.

B. Toxic or hazardous substances are not allowed on the Premises without the express written permission of WSDOT and under such terms and conditions as may be specified by WSDOT. For the purposes of this Lease, "Hazardous Substances," shall include all those substances identified as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, et seq., and the Washington Model Toxics Control Act, RCW 70.105D et seq., including all amendments and/or revisions to said laws and regulations, and shall include gasoline and other petroleum products. In the event such permission is granted, the use and disposal of such materials must be done in a legal manner by the TENANT.

C. TENANT agrees to cooperate in any environmental investigations conducted by WSDOT staff or independent third parties where there is evidence of contamination on the Premises, or where WSDOT is directed to conduct such audit by an agency having jurisdiction. TENANT will reimburse WSDOT within Thirty (30) calendar days of the date of WSDOT's invoice for the cost of such investigations, where the need for said investigation is determined to be caused by the TENANT's operations. TENANT will promptly provide WSDOT with notice of any inspections of the Premises, notices of violations, and orders to clean up contamination. TENANT will permit WSDOT to participate in all settlement or abatement discussions. In the event the TENANT fails to take remedial measures as duly directed by a state, federal, or local regulatory agency within Ninety (90) calendar days of such notice, WSDOT may elect to perform such work, and the TENANT covenants and agrees to reimburse WSDOT for all direct and indirect costs associated with WSDOT's work, within Thirty (30) calendar days of the date of WSDOT's invoice, where those costs are determined to have resulted from the TENANT's use of the Premises.

D. For the purposes of this Lease, "Costs" shall include, but not be limited to, all response costs, disposal fees, investigatory costs, monitoring costs, civil or criminal penalties, and attorney fees and other litigation costs incurred in complying with state or federal environmental laws, which shall include, but not be limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq.; the Clean Water Act, 33 U.S.C. § 1251; the Clean Air Act, 42 U.S.C. § 7401; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901; and the Washington Model Toxics Control Act, Ch. 70.105D RCW, et seq., including all amendments and/or revisions to said laws and regulations.

E. To the extent authorized by law, TENANT agrees to defend, indemnify and hold harmless WSDOT from and against any and all claims, causes of action, demands and liability including, but not limited to, any costs, liabilities, damages, expenses, assessments,

penalties, fines, losses, judgments and attorneys' fees associated with the removal or remediation of any Hazardous Substances that have been released, or otherwise come to be located on the Premises, including those that may have migrated from the Premises through water or soil to other properties, including without limitation, the adjacent WSDOT property, and which are caused by or result from TENANT's activities on the Premises effective February 23, 1968. TENANT further agrees to retain, defend, indemnify and hold harmless WSDOT from any and all liability arising from the offsite disposal, handling, treatment, storage, or transportation of any such Hazardous Substances removed from said Premises.

F. The provisions of this section shall survive the termination or expiration of this Lease.

20. WSDOT'S RESERVATION OF RIGHT TO MAINTAIN AND GRANT UTILITY FRANCHISES AND PERMITS.

A. WSDOT reserves the right for utility franchise and permit holders to enter upon the Premises to maintain, repair and enhance existing facilities and install new utilities and, for itself, to grant utility franchises and/or permits across the Premises. Such installation will be accomplished in such a manner as to minimize any disruption to the TENANT. The franchise/permit holder will be required to restore paving and grading damaged by the installation. WSDOT also reserves the right to withdraw portions of the Premises for uses such as, but not limited to, telecommunications transmission sites, which WSDOT determines to be reasonably compatible with TENANT's authorized use of the Premises.

B. The TENANT shall not disturb markers installed by a franchise/permit holder and will contact and provide notice to any franchise/permit holder and all owners of underground facilities prior to any excavation. TENANT shall contact WSDOT and call the Underground Utility Locating Service, or its successor organization, as part of its efforts to ascertain any and all owners of underground utility facilities and to locate the utility. The TENANT shall not damage legally installed underground utilities. TENANT shall comply with all applicable provisions of Chapter 19.122 RCW relating to underground facilities.

21. USE OF RIGHT OF WAY UNDER OR ADJACENT TO STRUCTURE.

A. The TENANT agrees to provide protection against vehicular hits or other likely causes of damage to all retaining walls and to bridge piers exposed to such potential damage under any elevated highway structure existing on the Premises arising from the TENANT's use of the Premises. The TENANT shall install jersey barriers around the perimeter of bridge piers with a minimum distance of Four (4) feet from the outside edge of each side of the piers, as shown on **Exhibit B**, attached hereto and by this reference incorporated herein.

Bridge pier protection shall be provided to the sole satisfaction of WSDOT at the time of Lease execution. TENANT agrees to make whatever alterations, changes or corrections to the bridge pier protection as directed by WSDOT.

B. The TENANT shall not weld any metal object to any metal member of any metal structure, nor drill or rivet into nor otherwise fasten anything to any pier or beam on any concrete, metal, or wood structure without WSDOT's specific and prior written approval of detailed drawings for such welding, riveting, drilling, or fastening.

C. The TENANT shall not allow more than Twenty (20) gallons of fuel, per vehicle located on the Premises.

D. The TENANT shall not park compressed natural gas (CNG) or liquefied natural gas (LNG) vehicles under the bridge ramp. CNG and LNG vehicles shall be parked along the south fence line of Premises.

E. The TENANT shall at its own expense, and upon prior written approval from WSDOT, make any provisions it deems necessary to protect users from any hazards resulting from use and operation of the highway.

22. TAXES, ASSESSMENTS, AND UTILITIES. The TENANT agrees to pay all assessments that benefit the Premises and/or which may hereafter become a lien on the interest of the TENANT in accordance with RCW 79.44.010. The TENANT also agrees to pay all taxes that may hereafter be levied or imposed upon the interest of the TENANT or by reason of this Lease or the TENANT's collection of charges or fees for the general public's use of the Premises for parking as provided herein. The TENANT is responsible for and agrees to pay the cost of utilities, including, but not limited to, surcharges, fuel adjustments, rate adjustments and taxes that serve the Premises.

23. LIENS.

A. Nothing in this Lease shall be deemed to make the TENANT the agent of WSDOT for purposes of construction, repair, alteration, or installation of structures, improvements, equipment, or facilities on the Premises. The TENANT acknowledges that WSDOT may not, and shall not, be subject to claims or liens for labor or materials in connection with such activities by the TENANT.

B. The TENANT shall at all times indemnify and hold harmless WSDOT from all claims for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment, or facilities on or within the Premises, and from the cost of defending against such claims, including attorney fees.

C. In the event a lien is filed upon the Premises, the TENANT shall:

(1) Record a valid Release of Lien;

(2) Deposit sufficient cash with WSDOT to cover the amount of the claim on the lien in question and authorize payment to the extent of said deposit to any subsequent judgment holder that may arise as a matter of public record from litigation with regard to lienholder claim; or

(3) Procure and record a bond which releases the Premises from the claim of the lien and from any action brought to foreclose the lien.

D. Should the TENANT fail to accomplish 1, 2, or 3, above, within Fifteen (15) days after the filing of such a lien, the Lease shall be in default.

24. WSDOT'S RIGHT OF ENTRY AND INSPECTION.

A. WSDOT, for itself, its agents and contractors, and for the Federal Highway Administration (FHWA), reserves the right to enter upon the Premises at any time without notice to the TENANT for the purpose of inspection, maintenance, construction, or reconstruction of the highway facility or any element thereof, to perform security audits such as Homeland Security, or to perform environmental audits as provided for elsewhere in this Lease. Any loss of the use of the Premises due to WSDOT's exercise of such right will be compensated for solely by a pro rata reduction of rent. WSDOT shall in no way be responsible for any incidental or consequential damages due to such loss of use, if any, by the TENANT.

B. WSDOT and FHWA may enter upon the Premises at any time without prior notice for the purpose of inspecting any excavation, construction, or maintenance work being done by the TENANT. In addition, WSDOT and FHWA may enter the improvements, if any, on the Premises at any time and without prior notice, for the purpose of inspection, maintenance, and repair of said improvements.

C. Entry upon the Premises and the improvements, if any, for any other purpose by WSDOT and FHWA shall be conducted with reasonable notice to the TENANT and during the hours of 8:00 a.m. to 5:00 p.m.

25. INSURANCE.

A. TENANT warrants that it is self-insured, and agrees to provide acceptable evidence of its self-insured status to WSDOT. TENANT's self-insurance policy must provide liability coverage for the Premises, including public liability coverage for bodily injury, property

damage, and personal injury of not less than Two Million and no/100 Dollars (\$2,000,000.00) combined single limit per occurrence, with a general aggregate amount of not less than Four Million and no/100 Dollars (\$4,000,000.00) per policy period. The TENANT shall increase the policy limits at its sole cost, when and if WSDOT deems it necessary due to the TENANT's use of the Premises.

B. The TENANT assumes all obligations for premium payment, and in the event of nonpayment, the TENANT is obligated to reimburse WSDOT the cost of maintaining the insurance coverage and any legal fees incurred in enforcing such reimbursement should TENANT fail to pay the policy premiums.

C. Coverage, if obtained by the TENANT in compliance with this section, shall not be deemed as having relieved the TENANT of any liability in excess of such coverage.

D. In the event TENANT, after commencement of this Lease, elects to terminate its self-insured status and secure commercial liability coverage, TENANT will promptly notify WSDOT and provide a certificate of insurance from an insurer licensed to conduct business in the State of Washington, in the amounts and types as set forth in **Section 25.A** above. Further, TENANT shall provide a certificate of insurance within Ten (10) calendar days of receiving a written notice from WSDOT for an increase in the coverage amounts.

26. HOLD HARMLESS/INDEMNIFICATION.

A. To the extent authorized by law, TENANT, its successors and assigns, will protect, save, and hold harmless WSDOT, its authorized agents and employees, from all claims, actions, costs, damages, (both to persons and/or property) or expenses of any nature whatsoever by reason of the acts or omissions of the TENANT, its assigns, subtenants, agents, contractors, licensees, invitees, employees, or any person whomsoever, arising out of or in connection with any acts or activities related to this Lease, whether those claims, actions, costs, damages, or expenses result from acts or activities occurring on or off the Premises. The TENANT further agrees to defend WSDOT, its agents or employees, in any litigation, including payment of any costs or attorney's fees, for any claims or actions commenced, arising out of, or in connection with acts or activities related to this Lease, whether those claims, actions, costs, damages, or expenses result from acts or activities occurring on or off the Premises. This obligation shall not include such claims, actions, costs, damages, or expenses which may be caused by the sole negligence of WSDOT or its authorized agents or employees; provided, that if the claims or damages are caused by or result from the concurrent negligence of (a) WSDOT, its agents or employees and (b) the TENANT, its assigns, subtenants, agents, contractors, licensees, invitees, employees, or involves those actions covered by RCW 4.24.115, this indemnity provision shall

be valid and enforceable only to the extent of the negligence of the TENANT or its assigns, subtenants, agents, contractors, licensees, invitees, employees.

B. **WAIVER:** TENANT agrees that its obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents while occupying the Premises for any purpose. For this purpose, the TENANT, by MUTUAL NEGOTIATION, hereby waives with respect to the WSDOT only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions chapter 51.12 RCW.

C. The indemnification and WAIVER provisions contained in this section shall survive the termination or expiration of this Lease.

27. PERSONAL PROPERTY. WSDOT shall not be liable in any manner for, or on account of, any loss or damage sustained to any property of whatsoever kind stored, kept, or maintained on or about the Premises, except for such claims or losses that may be caused by WSDOT or its authorized agents or employees. Upon termination of this Lease, WSDOT or its agent may remove all property remaining on the Premises at the TENANT's expense and dispose of it in any manner WSDOT deems appropriate. TENANT agrees to reimburse WSDOT for the costs of such removal and disposal within Thirty (30) calendar days of the date of WSDOT's invoice.

28. NONDISCRIMINATION. TENANT, for itself, its successors and assigns, as part of the consideration hereof, does hereby agree to comply with all applicable civil rights and antidiscrimination requirements, including, but not limited to, Chapter 49.60 RCW.

29. ASSIGNMENT. Neither this Lease nor any rights created by it may be assigned, sublet, or transferred. In the event that the TENANT allows others to use any portion of the Premises, whether by written or oral agreement without WSDOT's prior written approval, WSDOT, in addition to or in lieu of terminating this Lease for default, and in addition to any damages it may experience, may demand a share of any revenue generated by such unauthorized use. WSDOT shall set the amount of said share, and its decision shall be final and binding. WSDOT may demand such share at any time during the term of this Lease. The TENANT shall pay said share to WSDOT within Thirty (30) calendar days of demand. The TENANT agrees to pay said share retroactively to the date the unauthorized third party's use of the Premises commenced. Furthermore, such unauthorized assignment shall not relieve the TENANT hereunder from all of its obligations under this Lease, including but not limited to, payment of rent and maintenance of insurance.

30. PERFORMANCE BY WSDOT. If TENANT defaults in the performance or observation of any covenant or agreement contained in this Lease, WSDOT, without notice if deemed by WSDOT that an emergency exists, or if no emergency exists, with Thirty (30) days prior written notice, may direct TENANT to stop work and may itself perform or cause to be performed such covenant or agreement and may enter upon the Premises for such purpose. Such emergency shall include, but not be limited to, endangerment of life or to the highway facility or failure of TENANT to obtain in a timely manner the specified insurance coverage. TENANT shall reimburse WSDOT the entire cost and expense of such performance by WSDOT within Thirty (30) calendar days of the date of WSDOT's invoice. Any act or thing done by WSDOT under the provisions of this section shall not be construed as a waiver of any agreement or condition herein contained or the performance thereof.

31. DISPOSITION OF IMPROVEMENTS. Except as provided elsewhere herein, upon termination of this Lease under any provision hereof, the improvements constructed by the TENANT on the Premises shall become the property of WSDOT or, at the option of WSDOT, shall be removed by the TENANT at the TENANT's expense in a manner prescribed by WSDOT. In the event the TENANT fails to remove said improvements upon termination, WSDOT may remove and dispose of said improvements as it deems appropriate and at the TENANT's expense. The TENANT shall reimburse WSDOT for all expenses incurred in such removal and disposal within Thirty (30) calendar days of the date of WSDOT's invoice for such costs.

32. WSDOT ACCESS TO REMOVE IMPROVEMENTS. In the event the TENANT fails to remove improvements or restore the Premises to WSDOT's satisfaction, then if necessary or desirable in WSDOT's judgment for reasons of safety or economy, WSDOT or its agents shall have the right to cross any lands owned or otherwise controlled by the TENANT for the purpose of accomplishing said removal or restoration. Said right shall expire One Hundred Eighty (180) calendar days after the date of termination of this Lease, or when removal and restoration is complete in WSDOT's judgment, whichever is the earlier.

33. RESTORATION OF SITE. Prior to termination of this Lease, TENANT agrees, if so directed by WSDOT, to restore the Premises to its condition prior to TENANT's occupancy, reasonable wear and tear excepted. This work is to be done at the TENANT's expense to the satisfaction of WSDOT.

34. VACATION OF PREMISES. Upon termination of this Lease, the TENANT shall cease its operations on and/or use of the Premises. In the event the TENANT fails to vacate the Premises on the date of termination, the TENANT shall be liable for any and all costs to WSDOT arising from such failure.

35. BINDING CONTRACT. This Lease shall not become binding upon WSDOT unless and until executed for WSDOT by the Secretary of Transportation or her duly authorized representative.

36. ATTORNEYS' FEES. In the event of any controversy, claim, or dispute arising out of this Lease, each party shall be solely responsible for the payment of its own legal expenses, including but not limited to, attorney's fees and costs.

37. MODIFICATIONS. This Lease contains all the agreements and conditions made between the parties hereto pertaining to the rental of the Premises and may not be modified orally or in any other manner other than by a written agreement signed by all parties hereto. The receipt of rent by WSDOT, with knowledge of any breach of this Lease by the TENANT, and/or with knowledge of any default on the part of the TENANT shall not be deemed to be a waiver of any provision of this Lease. Failure on the part of WSDOT to enforce any covenant or provision herein contained shall not discharge or invalidate such covenant or provision or affect the right of WSDOT to enforce the same in the event of any subsequent breach or default.

38. INTERPRETATION. This Lease shall be governed by and interpreted in accordance with the laws of the State of Washington. The titles to paragraphs or sections of this Lease are for convenience only and shall have no effect on the construction or interpretation of any part hereof.

39. SEVERABILITY. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Lease shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

40. VENUE. TENANT agrees that the venue of any action or suit concerning this Lease shall be in the Thurston County Superior Court and all actions or suits thereon shall be brought therein, unless applicable law requires otherwise.

41. SUPERSEDE. This Lease and the exhibits hereto constitute the entire agreement between parties with respect to the identified leased Premises and supersedes all previous leases, agreements and understandings between the parties hereto. The parties agree that (1) Agreement Lease for Parking Facilities No. 7-518, dated February 23, 1968 and Lease Agreement No. AA-1-10891, dated February 2, 1999, and any amendments thereto, as well as any other documents between the parties that relate to the leased Premises are hereby terminated and superseded by this Lease.

42. TOTALITY OF AGREEMENT. It is understood that no guarantees, representations, promises, or statements expressed or implied have been made by WSDOT except to the extent that the same are expressed in this Lease.

43. NOTICES. Wherever in this Lease written notices are to be given or made, they will be served, personally delivered or sent by certified or overnight mail addressed to the parties at the address listed below unless a different address has been designated in writing and delivered to the other party. The TENANT agrees to accept service of process at said address; provided, that such address is located in the State of Washington. Otherwise, the TENANT designates the Secretary of State of Washington as an agent for the purpose of service of process. Such service shall be deemed personal service.

WSDOT: DEPARTMENT OF TRANSPORTATION (Mailing Address)
Attn.: Property Management Section Manager
P.O. Box 47338
Olympia, WA 98504-7338

DEPARTMENT OF TRANSPORTATION (Physical Address)
Attn.: Property Management Section Manager
243 Israel Road S.E.
Tumwater, WA 98501

TENANT: CITY OF SEATTLE
Finance and Administrative Services Department
P.O. Box 94689
Seattle, WA 98124-4689

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Lease as of the date of WSDOT's execution written below.

Accepted and Approved by:

CITY OF SEATTLE
FINANCE AND ADMINISTRATIVE
SERVICES DEPARTMENT

WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION

By: _____

By: _____

Title: _____

Cynthia Tremblay,
Property Management Program Manager

Dated: _____

Dated: _____

APPROVED AS TO FORM

By: _____

Assistant Attorney General

_____, 20____

AGENCY ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this _____ day of _____ before me personally appeared _____, to me known to be the duly appointed _____ and that he/she executed the within and foregoing instrument and acknowledged the said instrument to be his/her free and voluntary act and deed of said State of Washington, for the uses and purposes therein set forth, and on oath Lessees that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the _____ day of _____, 20_____.

(Signature)

(Print or type name)
Notary Public in and for the State of Washington
residing at _____
My commission expires _____

WSDOT AGENCY ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

On this _____ day of _____, 20____ before me personally appeared Cynthia Tremblay, to me known to be the duly appointed Property Management Program Manager, and that she executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said State of Washington, for the uses and purposes therein set forth, and on oath states that she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the _____ day of _____, 20_____.

(Signature)

(Print or type name)
Notary Public in and for the State of Washington
residing at _____
My commission expires _____

CURVE DATA							SPIRALS BACK & AHEAD		
PI Station	Δ	CΔ	D	R	T	L	a	DE	Ls
2140+21.28	18°27'59"	14'42.39'	2°30'	2291.83'	447.51'	588.43'	1 1/4	1°52'30"	1.5

Daniel Bretzke
 FAS Charles St WSDOT Lease Ord. Exhibit A to Attachment 1
 June 18, 2012
 Version 1

T.24N.R.4E.W.M.

Exhibit A
 Page 1 of 2
 1-17-05807
 AA 1-10891
 City of Seattle
 Lease Premises Total Area:
 108,467 + 16,975 = 125,442 sf

NOTE: For R/W & L/A West See SR 90, Connector St. Interchange
 4th Ave. S. and Transit Ramps, Sheet 1 thru 5 of 5, Dated Oct. 19, 1983.
 4th Ave. S. to Airport Way S., Sheet 4 of 6 Sheets,
 Approved and Adopted May 27, 2005

FED. ROAD DIV. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
8	WASH.	T-5-3(9)188			

- SEATTLE TIDE LANDS
- JUDKINS ADD
- MCNAUGHTS EXTENSION TO JUDKINS ADD
- KIDDS ADD

NOTES

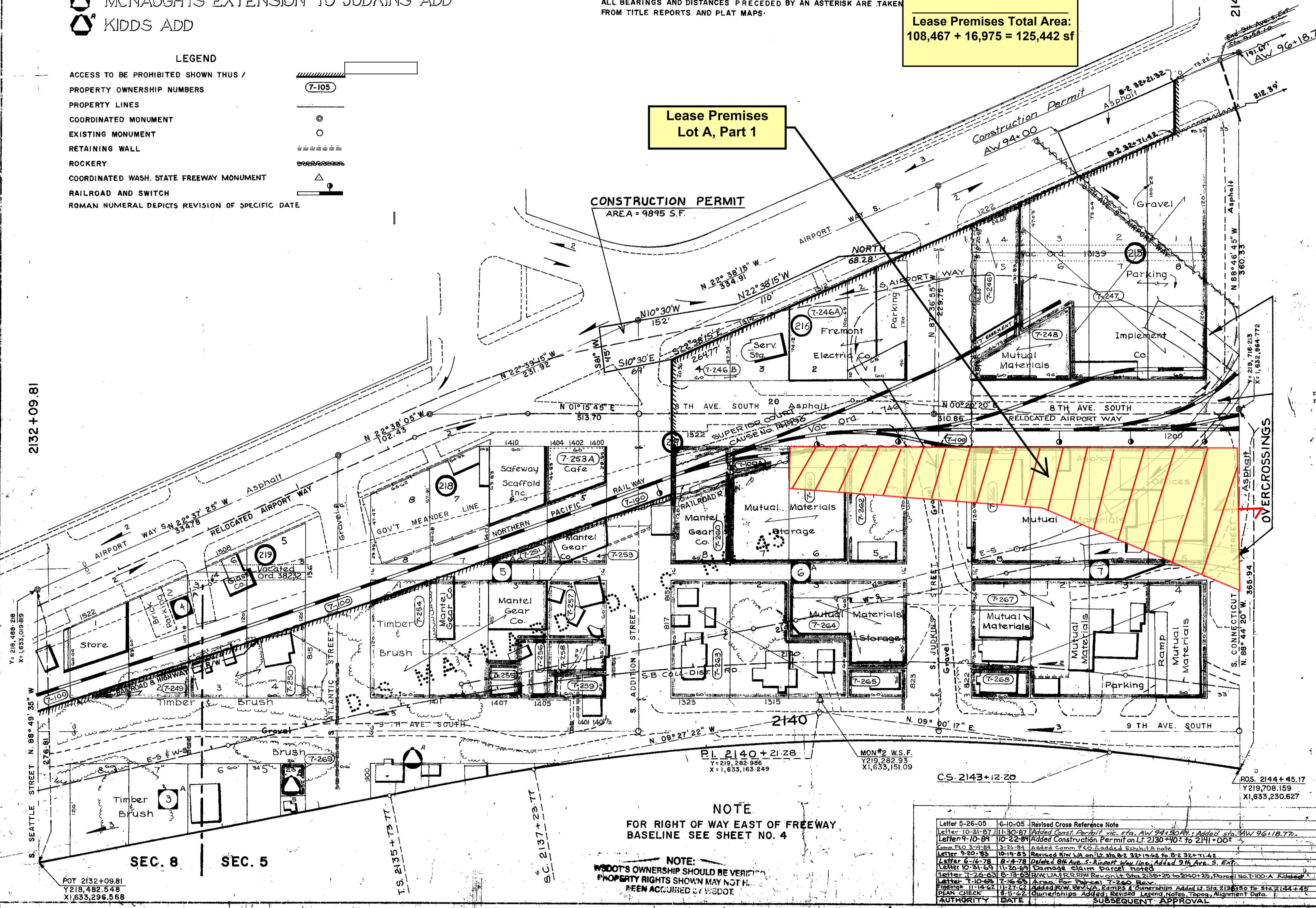
ALL PAVEMENTS, CURBS, SIDEWALKS, DRIVEWAYS AND ALLEYS ARE CEMENT CONCRET UNLESS OTHERWISE NOTED.
 WASHINGTON STATE COORDINATE SYSTEM, NORTH ZONE, CONVERTED TO PROJECT DATUM PLANE.
 ALL BEARINGS AND DISTANCES PRECEDED BY AN ASTERISK ARE TAKEN FROM TITLE REPORTS AND PLAT MAPS.

LEGEND

- ACCESS TO BE PROHIBITED SHOWN THUS /
- PROPERTY OWNERSHIP NUMBERS
- PROPERTY LINES
- COORDINATED MONUMENT
- EXISTING MONUMENT
- RETAINING WALL
- ROCKERY
- COORDINATED WASH. STATE FREEWAY MONUMENT
- RAILROAD AND SWITCH
- ROMAN NUMERAL DEPICTS REVISION OF SPECIFIC DATE

Lease Premises Lot A, Part 1

CONSTRUCTION PERMIT
 AREA = 9895 S.F.



DAMAGE CLAIM	
PARCEL NO.	NAME
7-253A	SWART IND.

OWNERSHIPS		ALL AREAS TO NEAREST 1/4-SQ. FT. UNLESS OTHERWISE NOTED.		
PARCEL NO.	NAME	TOTAL AREA	TAKE	REMAINDER
			LT.	RT.
7-246	LUBETICH	6,710	6,710	
7-247	SEATTLE 1ST NAT BANK	38,910	38,910	
7-248	CLOVERDALE PROP INC.	4,690	4,690	
7-249	KING COUNTY	2,080	2,080	
7-250	HEIRS OF KALYK	6,780	6,780	
7-251	HERZENA, ET AL	970	970	
7-253	MANTEL GEAR WORKS INC.	2,250	2,250	
7-254	SEATTLE FED. SAVINGS & LOAN	1,050	1,050	
7-255	THANOS	1,800	1,800	
7-257	HEIRS OF COOPER	3,600	3,600	
7-258	STATHOS	2,100	2,100	
7-259	PODKRANIC	1,500	1,500	
7-260	MANTEL GEAR WORKS INC.	7,200	7,200	
7-261	CLOVERDALE PROP INC.	12,720	12,720	
7-262	HEIRS OF SCHWEDE	7,200	7,200	
7-263	DUFFE	18,000	18,000	
7-264	CLOVERDALE PROP INC.	9,000	9,000	
7-265	HALE	1,800	1,800	
7-266	CLOVERDALE PROP INC.	28,800	28,800	
7-267	PROP INC.	2,700	2,700	
7-268	PINKHAM	1,800	1,800	
7-269	MOSSBACK-PASSON	830	830	
7-100	SEE OWNERSHIP TABLE SHEET 4			
7-246A	MCKINLEY	12,000	12,000	
7-246B	SILL	5,700	5,700	
7-100A	N.P.R.R.	1,510	1,510	

ACCESS NOTES:
 TRAFFIC MOVEMENT WILL BE PERMITTED BENEATH THE E-S RAMP STRUCTURE ON:
 NORTHERN PACIFIC RAILWAY
 TRAFFIC MOVEMENT WILL BE PERMITTED BENEATH THE S-AIRPORT WAY RAMP STRUCTURE ON:
 RELOCATED AIRPORT WAY

Revision dated Oct. 19, 1983 approved per Commission Findings and Order adopted March 19, 1984.
 Revision dated Oct. 19, 1983 tentatively approved by Project Development Engineer.

EXHIBIT A

NOTE: Approved per State Highway Commission Order Nov. 14, 1962

PRIMARY STATE HIGHWAY NO. 1 SR 5
 SEATTLE FREEWAY
 PLUM STREET TO JACKSON STREET
 KING COUNTY
 RIGHT OF WAY
 STA. 2132+09.81 to STA. 2144+45.17 (LT.)

WASHINGTON STATE HIGHWAY COMMISSION
 DEPARTMENT OF HIGHWAYS
 OLYMPIA, WASHINGTON

E. A. KITCHMAN
 E. L. MULLISON
 F. A. CORWELL, Chairman
 G. D. ZAHM
 J. M. BEAR, JR.

SCALE: 1" = 50'

Exhibit A to Attachment 1 to Charles St. WSDOT Lease Ord

NOTE
 FOR RIGHT OF WAY EAST OF FREEWAY BASELINE SEE SHEET NO. 4

NOTE:
 WSDOT'S OWNERSHIP SHOULD BE VERIFIED.
 PROPERTY RIGHTS SHOWN MAY NOT HAVE BEEN ACQUIRED BY WSDOT.

LETTER	DATE	DESCRIPTION	BY
Letter 5-26-05	6-10-05	Revised Cross Reference Note	DBP
Letter 10-21-07	11-30-07	Added Const. Exhibit 10. S.F.A. AW 94130R; Added sta. AW 96+18.77.	DBP
Letter 9-10-84	10-22-84	Added Construction Permit on LT 2130+40 to 2111+00.	DBP
Comm FLO 3-19-84	3-21-84	Added Comm FLO. Added Exhibit A note	DBP
Letter 9-20-83	10-19-83	Revised R/W L/A on LT Sta 2132+19.82 to 2132+11.42	DBP
Letter 6-16-78	8-14-78	Deleted 8th Ave. S. Airport Way line. Added 9th Ave. S. Exp.	DBP
Letter 10-31-65	11-20-65	Garage claim. Deleted notes	DBP
Letter 7-26-63	8-18-63	R/W L/A & R/W Rev. on Sta 2138+25 to 2140+25. Parcel No. 7-100-A. Added	DBP
Letter 7-10-63	7-16-63	Area for Parcel 7-240 Bay	DBP
Letter 11-14-62	11-27-62	Added R/W, Rev. L/A, Ramps & Ownerships Added. Sta 2138+15 to Sta 2144+45	DBP
PLAN CHECK	11-5-62	Ownerships Added; Revised Legend Notes, Topog. Alignment Data.	DBP
AUTHORITY	DATE	SUBSEQUENT APPROVAL	BY

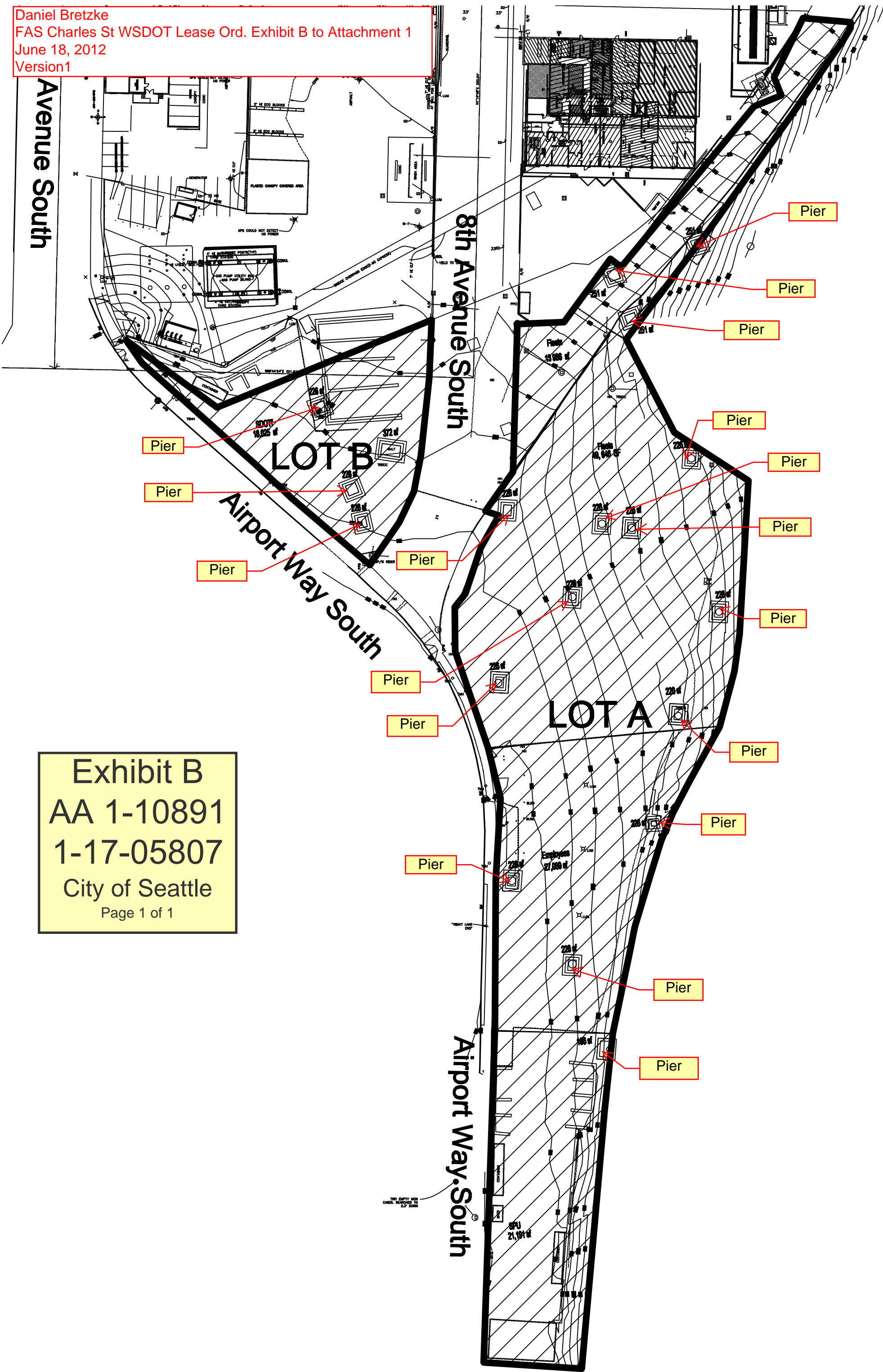


Exhibit B
AA 1-10891
1-17-05807
City of Seattle
Page 1 of 1