CB 117157
#13

Ned Dunn
CEN Chihuly Agreement ORD
March 31, 2011
Version #2

ORDINANCE _____

AN ORDINANCE relating to the Seattle Center; authorizing the Director of Seattle Center to execute a lease agreement with Center Art, LLC for the development, construction, and operation of a glass and gardens exhibition space for Chihuly glass, a retail shop and related uses, while also providing for improvements to public areas of Seattle Center; and ratifying and confirming certain acts.

WHEREAS, in April 2010, Seattle Center issued a Request for Proposals ("RFP") for redevelopment of the South Fun Forest Site scheduled to be vacated by the Fun Forest in early 2011; and

WHEREAS, the Seattle Center Director formed a citizens review panel to analyze the nine proposals received according to criteria included in the RFP, including consistency with the Planning and Design Principles of the Seattle Center Century 21 Master Plan; and

WHEREAS, in September 2010 the review panel submitted its recommendation to the Seattle Center Director that the proposal submitted by the Space Needle LLC to construct and operate an exhibit space, event pavilion, and art garden featuring the work of glass artist Dale Chihuly best satisfied the criteria of the RFP and would benefit Seattle Center; and

WHEREAS, the City and Center Art, LLC, the entity formed by Space Needle LLC for this project, have negotiated a lease agreement entitled the SEATTLE CENTER GLASS AND GARDENS EXHIBITION LEASE; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. As requested by the Seattle Center Director and recommended by the Mayor, the Seattle Center Director, or his designee, is authorized to execute, for and on behalf of The City of Seattle, an agreement with Center Art, LLC substantially in the form of the agreement attached hereto and identified as "SEATTLE CENTER GLASS AND GARDENS EXHIBITION LEASE" (Attachment 1, including exhibits), under which Center Art, LLC will lease certain real property and improvements located at Seattle Center for an initial term of five years, with an

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option for Center Art, LLC to extend the lease for five additional five-year terms, all for the purpose of developing, constructing, operating and maintaining a glass and gardens exhibition space for Dale Chihuly's glass, a retail space and related uses, and providing for improvements to public use areas of Seattle Center.

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

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

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Passed by the City Council the ____ day of _____, 2011, and signed by me in open session in authentication of its passage this _____ day of _____, 2011.

_____

President _____ of the City Council

Approved by me this ____ day of _____, 2011.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

_____

City Clerk

(Seal)

ATTACHMENTS:

SEATTLE CENTER GLASS AND GARDENS EXHIBITION LEASE (Attachment 1)

Exhibits 1-8 to Attachment 1

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SEATTLE CENTER
GLASS AND GARDENS EXHIBITION LEASE
CITY OF SEATTLE/CENTER ART LLC

THIS SEATTLE CENTER GLASS AND GARDENS EXHIBITION LEASE (the "Lease") is entered into this ____ day of _____, 2011, by and between **THE CITY OF SEATTLE** ("City" or "Landlord"), a city of the first class of the State of Washington, acting by and through the Director of its Seattle Center Department ("Director"), and **CENTER ART LLC** ("Center Art" or "Tenant"), a limited liability company organized under the laws of the State of Washington. City and Center Art are from time to time collectively referred to herein as the "Parties".

Center Art desires to lease from City, and City agrees to lease to Center Art, certain real property and improvements located in the City of Seattle, Washington, upon which Center Art intends to develop, construct, operate and maintain, according to the terms and conditions of this Lease, the herein described Project.

IN CONSIDERATION of the mutual covenants contained herein, and subject to the terms and provisions set forth herein, the City and Center Art covenant and agree as follows:

1. Summary Lease Data; Exhibits.

The following terms have the following meanings, except as specifically modified in this Lease:

1.1 Premises. The Premises comprise approximately 102,770 square feet of real property located on the Seattle Center campus in The City of Seattle, County of King, State of Washington (the "Seattle Center"). The Premises comprise the following:

1.1.1 The real property legally described in Exhibit 1 attached hereto, which real property includes: (a) an existing building approximately 20,557 square feet in size and depicted as "Area A" on the site plan attached hereto as Exhibit 2 (the "Existing Building"); (b) an adjacent paved and landscaped area approximately 38,811 square feet in size and depicted as "Area B" on Exhibit 2; and (c) an additional, adjacent paved and landscaped area depicted as the "Public Use Area" on Exhibit 3. As used in this Lease, the "Exhibit and Garden Area" means the Existing Building and that portion of the Premises depicted as "Area B" on Exhibit 2.

1.1.2 Approximately 853 feet of floor area within an existing retail building ("Retail Building") depicted as "Area C" on Exhibit 2.

1.1.3 [this section intentionally deleted]

1.1.4 City's Reserved Rights. Center Art's right to use and occupy the Premises is subject to the City's reserved rights in that portion of the Existing Building designated as the "Mural Support Space," as depicted on Exhibit 2 and as further described in Section 2.7.1

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below. In addition, the City has certain reserved rights in and to the Public Use Area depicted on Exhibit 3 and as further defined and described in Section 2.7.3 below.

1.1.5 Lot Line Adjustment. At any time after the Effective Date, Seattle Center and Center Art shall cooperate to complete a lot line adjustment of that portion of the Premises described in Section 1.1.1 ("Lot Line Adjustment"). The Lot Line Adjustment is intended to adjust existing lots to conform the Premises substantially to the configuration as depicted on Exhibit 3 attached hereto (the "Lot Line Adjustment Configuration"), however, the Parties acknowledge that the Lot Line Adjustment Configuration is conceptual only and the actual Lot Line Adjustment may vary depending on, among other things, the number and configuration of existing lots. Center Art shall bear all costs of the Lot Line Adjustment, including any necessary survey costs and application fees. Each of Seattle Center and Center Art shall bear the costs, if any, of their own respective staff or administrative time to process the Lot Line Adjustment. If the Director reasonably concludes that the Lot Line Adjustment is not feasible, for example, if completion of the Lot Line Adjustment cannot be accomplished consistent with legal requirements or would have an unreasonably adverse impact on other existing lots in the vicinity of the Premises, and the Lot Line Adjustment cannot be amended or modified in a manner that would make it feasible or reduce the impacts to an acceptable level, then the parties shall not be required to complete the Lot Line Adjustment. Otherwise, upon completion of the Lot Line Adjustment, the Seattle Center and Center Art agree to modify this Lease as necessary to amend the description of the Premises and to grant Center Art any easements, licenses or other rights it may reasonably require for the construction, development, operation, repair and maintenance of the Project to the extent required to replace rights that would otherwise be modified, reduced or eliminated as a result of the Lot Line Adjustment.

1.2 Description of Project. The Project to be located on the Premises shall be designed, constructed and operated as a glass and gardens exhibition space for exhibition of Dale Chihuly's glass as presented by Chihuly Inc., d/b/a Chihuly Studio ("Chihuly"), other artwork and such other ancillary and related uses as permitted herein, including but not limited to gardens, retail sales, indoor/outdoor art exhibition spaces, theater, hot shop, café, ticketing, and banquet/special event space, all as further described in Section 2.3, Permitted Uses. The Project shall include renovation and modification of the Existing Building including the addition of a glass exhibition hall (the "Glass House"), development of the Exhibit and Garden Area and improvements to the Retail Space for certain retail uses, all as set forth in the preliminary design and site plan attached hereto as Exhibit 4 ("Preliminary Project Design"). In addition, the Project shall include certain improvements (herein the "Initial Improvements") within that portion of the Public Use Area depicted as the "Project Improvement Area" in Exhibit 2 and as further described in Section 14.1 below. At Center Art's sole cost and discretion, the Project also may include a covered walkway to the Existing Building as depicted in Exhibit 2.

1.3 Project Improvement Area. That portion of the Public Use Area of the Premises in which Center Art shall provide landscaping and other improvements as part of the Initial Improvements as depicted on Exhibit 4. Following completion of the Initial Improvements

within the Project Improvement Area City shall be solely responsible for all operations, repair and maintenance of the Project Improvement Area.

1.4 Effective Date. The date this Lease is fully executed by an authorized representative of both parties following authorization by ordinance of the Seattle City Council.

1.5 Commencement Date. The "Commencement Date" shall occur on the date that is the later of April 1, 2011 or the date on which all required permits for demolition, clearing and grading work in connection with the Project are issued in final and unappealable form without modifications or conditions that are unacceptable to Center Art, in Center Art's reasonable discretion, and Center Art takes possession of the Premises. For the purpose of determining the Commencement Date, Center Art's possession of the Exhibit and Garden Area shall be deemed to constitute possession of the Premises. The Parties agree and acknowledge that City shall deliver possession of the Retail Building to Center Art on the later of: January 1, 2012, provided the Garden and Exhibit Area is scheduled to open to the general public no later than April 1, 2012; or sixty (60) days prior to the scheduled opening date of the Exhibit and Garden Area to the general public. At the request of either party, Center Art and City shall execute a letter agreement confirming the Commencement Date.

1.6 Interim Rent Period. The time period beginning on the Commencement Date and ending on the day immediately preceding the Rent Commencement Date. Interim Rent is further described in Section 1.9 and Section 4.1.

1.7 Rent Commencement Date. The "Rent Commencement Date" means the date when Center Art shall stop paying Interim Rent and shall commence paying Base Rent. The Rent Commencement Date shall be the earlier of either (a) the date when the Exhibit and Garden Area is open to the general public or (b) April 1, 2012, subject to Events of Force Majeure as described in Section 36. Nothing in this Section 1.7 shall be deemed to constitute an obligation on the part of Center Art to commence payment of Base Rent for the Retail Building until such time as City delivers possession thereof.

At the request of either party, Center Art and the City will execute a letter agreement confirming the Rent Commencement Date.

1.8 Expiration Date. Sixty (60) complete calendar months after the Rent Commencement Date, unless this Lease is extended under Section 3.2 or terminated under the conditions herein.

1.9 Rent. As used in this Lease, Rent means and includes all sums due from Center Art to City, including Interim Rent, Base Rent, Additional Rent, and Additional Charges.

Interim Rent for Premises during Interim Rent Period: Ten Thousand Dollars ($10,000) per month only (i.e., no Base Rent or Additional Rent) for the entirety of the Premises, including the Retail Building.

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Base Rent: The initial annual Base Rent for the Premises is Three Hundred Fifty Thousand Dollars ($350,000) (or $29,166.67 per monthly installment). This Base Rent amount assumes Center Art has taken possession of the entirety of the Premises, including the Retail Building. If City fails to deliver possession of the Retail Building as required in Section 1.5, then Center Art shall be entitled to a credit against the Base Rent in the amount of $3,659.37 per month for the Retail Building until such time as City delivers actual possession thereof.

Additional Rent: Due in Extended Terms based on Net Sales of Chihuly Fine Art; see Section 4.4.

1.10 Security Deposit. $29,166.67 to be paid by Center Art within ten (10) days of the Effective Date of the Lease. The Security Deposit shall be applied toward Center Art's initial Base Rent payment in the first year of the Lease.

1.11 Initial Improvements. The improvements, additions, and alterations that Center Art will make to the Premises and to the Project Improvement Area, as further described in Section 14 and as conceptually depicted on Exhibit 4.

1.12 Notice Addresses.

To the City:	Seattle Center Director 305 Harrison Street Seattle, WA 98109
To Center Art:	Center Art LLC 203 Sixth Avenue North Seattle, WA 98109-5005 Attn: President
To Chihuly: [for purpose of Section 28.9 only]	Chihuly, Inc. 1111 NW 50th Street Seattle, WA 98109-5120

1.13 Exhibits. The following Exhibits are made a part of this Lease:

Exhibit 1:	Legal Description of Premises
Exhibit 2:	Premises Site Plan
Exhibit 3:	Public Use Area/Lot Line Adjustment Configuration
Exhibit 4:	Preliminary Project Design
Exhibit 5:	Form of Waiver – Section 16.1
Exhibit 6:	Artists at Play Conceptual Proposal
Exhibit 7:	Site Location for Artists at Play
Exhibit 8:	Memorandum of Lease

2. Demise; Premises.

2.1 Grant. For and in consideration of Center Art's covenant to pay Rent and the other obligations of Center Art hereunder, City hereby leases the Premises to Center Art and Center Art hereby leases the Premises from the City, subject to and in accordance with all the terms and conditions under this Lease. Subject to City's reserved rights in certain areas of the Premises as described in Section 1.1.4, Center Art shall be entitled to develop, construct and operate the Project on the Premises as well as all other improvements and facilities, appurtenant fixtures, machinery and equipment necessary for the operation of the Project, and all alterations and additions thereto and substitutions therefore necessary or desirable for the Project, all according to the terms and conditions of this Lease.

2.2 Condition. Center Art is familiar with and has inspected the Premises, which City leases and Center Art accepts from City in "AS IS" condition and without warranty or representation of any kind except as expressly set forth in this Lease.

2.3 Permitted Uses. The Exhibit and Garden Area portion of the Premises shall be used for the development, construction, operation and maintenance of glass and gardens exhibition space for exhibition of Chihuly glass art, other artwork, and other reasonably related and ancillary uses including but not limited to gardens, retail sales, indoor/outdoor art exhibition spaces, public programming, educational activities, theater, hot shop, café, ticketing, and banquet/special event space. The Retail Space may be used for Chihuly art work as well as general "non-Chihuly" retail merchandise sales and other paraphernalia, memorabilia, novelties and other products consistent with the Project programming and mission, subject to Section 11.8 below. If the Chihuly portion of the Project is terminated or is no longer feasible, Center Art shall be entitled to use the Premises for other similar uses that support the Seattle Center's mission and programs subject to prior written notification to Seattle City Council and subject to the Director's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. In making his/her decision, the Director shall be entitled to consider, without limitation, the following criteria, none of which shall stand alone or be conclusive: whether the proposed new use will be compatible with and contribute to the Seattle Center vision, existing facilities and the unique mix of programs, attractions and open spaces at Seattle Center; will be compatible with the Century 21 Master Plan; will create a high quality experience for patrons; will have benefits to the public similar to the original use; will not have a greater impact than the initial use on Seattle Center capital expenditures or net operating costs; will partner with Seattle Center to achieve the Seattle Center vision. The uses allowed in this Section 2.3 are referred to collectively as the "Permitted Uses." No use other than the Permitted Uses shall be permitted on the Premises without the prior written approval of the Director, which approval may be withheld conditioned or delayed in the Director's reasonable discretion.

2.4 Quiet Enjoyment. Center Art shall at all times during the term of this Lease have the right to peacefully and quietly have, hold, occupy and enjoy the Premises, subject only to the terms of this Lease, without hindrance or molestation from City or any other person whatsoever.

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2.5 Access Prior to Commencement Date; Construction of Certain Utilities. Center Art may enter the Premises prior to the Commencement Date for the following purposes:

2.5.1 General Access. Center Art shall have access to the Premises in order to examine and conduct studies of the land and the existing structures, subject to the Director's approval. Center Art shall give the Director reasonable advance notice of such entry, including a description of the proposed activities. Access to the Retail Building shall not unreasonably disturb or disrupt existing tenant operations therein.

2.5.2 Construction of Certain Utilities. After the Effective Date and contingent upon the Parties having entered into the separate construction agreement described in Section 14.1, Center Art shall have access to the Premises and Seattle Center common areas as necessary for the construction of certain utility lines and connections subject to such terms and conditions for construction as may be set forth in the construction agreement described in Section 14.1.

2.5.3 Compliance. Center Art, in connection with the access rights granted pursuant to this Section 2.5, shall comply with all applicable laws and any reasonable conditions the Director may require, including but not limited to providing evidence of insurance required under Section 20. Center Art's indemnification obligations under Section 19 shall be applicable to any access or use of the Premises prior to the Commencement Date, and Center Art hereby releases the City from any liability or claim of damages arising from Center Art's entry or access in or around the Premises.

2.6 Common Areas; Licenses/Easements.

2.6.1 Common Areas. Center Art and its employees, contractors, licensees, agents, tenants, subtenants, customers and invitees will have access to the Premises 365 days per year. Center Art may use the Seattle Center common areas as now or hereafter constituted, including without limitation, parking lots and garages, walkways, seating areas, public restrooms, landscaped areas, public stairs, ramps, escalators and shelters,(the "Common Areas") in common with all other users and visitors of the Seattle Center and subject to such general rules, regulations, and hours as the Director may from time to time establish; however, there shall be no permanent change in or to the Common Areas that materially and adversely impacts pedestrian or vehicular access serving the Premises unless agreed to by Center Art.

2.6.2 Licenses/Easements. At the completion of construction of the Project and Initial Improvements, and again following the completion of any Lot Line Adjustment, if Center Art can demonstrate to the Director's reasonable satisfaction that Center Art reasonably requires additional licenses or use rights not adequately provided for under this Lease, Center Art and the Director shall cooperate as necessary to agree upon the terms and location of any additional licenses or use rights as may be reasonably necessary or desirable to operate, maintain or repair the Project. Any such licenses or use rights will remain effective for the term of this Lease until the expiration or sooner termination

of this Lease, at which time they will automatically terminate without any need for further action on the part of either party hereto. As further described in Section 14.1, temporary construction easements for Center Art's use and occupancy of specific portions of the Public Use Area or Seattle Center campus for the purpose of staging and construction of the Project and Initial Improvements at such reasonable locations as the Director shall designate shall be set forth in a separate construction agreement between Center Art and City prior to commencement of any construction.

2.7 City's Reserved Rights to Certain Areas of the Premises. Center Art's right to use and occupy the Premises is subject to certain City reserved rights to specific areas of the Premises as follows:

2.7.1 Mural Support Space. City reserves the right to control, manage, use and grant third parties the right to use the Mural Support Space depicted on Exhibit 2. City shall take all reasonable steps to ensure that such third party uses do not unreasonably interfere with or disturb the rights granted to Center Art herein. Center Art acknowledges that typical use of the Mural Support Space includes backstage support for concerts on the Mural Stage, and such use shall not be deemed an unreasonable interference. For the duration of the Term, Center Art shall have the right to install, maintain, repair and replace HVAC equipment and supporting structures within the Mural Support Space in such locations as approved by the Director, if necessary or desirable in connection with the construction, development or use of the Project. City shall have no maintenance responsibility for any equipment installed by Center Art within the Mural Support Space. Other than with respect to the HVAC equipment and/or any supporting structures, Center Art shall have no obligations of any kind under this Lease to maintain or repair the Mural Support Space, all of which shall be the responsibility of City (or any third party otherwise responsible therefor). City shall pay its equitable share of the cost of utilities to the Mural Support Space; provided, however, that at its option and sole cost, as part of the Initial Improvements, Center Art may cause the utilities to the Mural Support Space to be separately metered. City shall have no obligation to enhance, improve or alter the Mural Support Space or to change City's operations therein as a result of this Lease.

2.7.2 [this section intentionally deleted]

2.7.3 Public Use Area. The City reserves the right to control, manage, maintain and operate the Public Use Area as depicted in Exhibit 3 hereto, including the Mural Stage, all improvements, pedestrian walkways, landscaping and hardscaping and other amenities, subject to the specific rights and obligations of Center Art with respect to the Project Improvement Area and any other rights granted to Center Art herein. City reserves the Public Use Area for public use and enjoyment, festivals, and other uses the Director deems consistent with Seattle Center's mission and programs. The City shall be solely responsible for the management, operation and maintenance of the Public Use Area, and City shall maintain and operate the Public Use Area in a clean, safe and unobstructed manner consistent with other areas of the Seattle Center campus. Following its installation of Initial Improvements within the Project Improvement Area, Center Art shall have no obligation to maintain or repair any portion of the Project Improvement Area or any other portions of the Public Use Area, with the exception of maintenance of any artwork it installs within the

Project Improvement Area. Center Art, in connection with its operation and programming of the Premises, shall not obstruct members of the general public from entering upon or using the Public Use Area, except for temporary construction activities or closures from time to time in connection with the Project construction, operation, maintenance or repair, or periodic installation, repair or removal of Center Art-installed Artworks and Inventory in the agreed-upon locations within the Project Improvement Area. All of such work by Center Art in the Project Improvement Area shall be in the locations and subject to the terms of the construction agreement described in Section 14.1 or as otherwise agreed to by the Director. Center Art shall at all times during the Term have access to the Public Use Area as reasonably necessary or desirable in order to install and maintain the following Project elements:

(i) If and when constructed, a covered canopy over a pedestrian-only walkway connecting the south side of the Exhibit and Garden Area with the Space Needle driveway turn around (which generally shall remain available for patron queuing and drop-off except during major festivals or events when alternate arrangements may be agreed upon between Center Art and the Director);

(ii) The proposed "green wall" on the western side of the Existing Building in the Exhibit and Garden Area, to the extent necessary or desirable for maintenance or repair;

(iii) Vehicular access over and across locations designated by the Director for loading/unloading as needed to support the Project programming, subject to the Director's reasonable rules and regulations; and

(iv) Installation, maintenance, repair, replacement and removal from time to time of Project Artworks and Inventory in the Project Improvement Area in the locations depicted in Exhibit 4 or as otherwise agreed to by Center Art and the Director from time to time.

2.8 References to Seattle Center. Center Art shall use all commercially reasonable efforts to ensure that Project advertising materials that would typically include a reference to the Project location will reference the Seattle Center location.

3. Lease Term.

3.1 Initial Term. This Lease shall be for a term (the "Initial Term") commencing on the Commencement Date and ending on the Expiration Date specified in Section 1.8, unless terminated earlier in accordance with the provisions of this Lease or extended as provided in Section 3.2 or 3.3 below. As used in this Lease, "Term" includes the Initial Term and any extended terms.

3.2 Extended Terms. At the expiration of the Initial Term, Center Art shall have the option to extend the Lease for five (5) additional successive terms of five years each (each an "Extended Term"). Center Art must exercise the option to extend by providing the Director with written notice of Center Art's intention no later than 180 days prior to the expiration of

the then-current Term. All terms and conditions of this Lease shall apply to any Extended Term, except for Base Rent and Additional Rent, which shall be calculated as described in Sections 4.3 through 4.5. Whenever the word "Term" is used in this Lease it shall be deemed to include the Initial Term and any exercised Extended Term.

4. Rent.

4.1 Interim Rent. Beginning on the Commencement Date and thereafter in advance on or before the first day of each month during the Interim Rent Period, Center Art shall pay to City at the address and to the account specified by the City, without notice or demand or any setoff or deduction whatsoever, in lawful money of the United States, the Interim Rent in Section 1.9.

4.2 Base Rent. Beginning on the Rent Commencement Date and thereafter, in advance, on or before the first day of each month throughout the Lease Term, Center Art shall pay to City at the address and to the account specified by City, without notice or demand or any setoff or deduction whatsoever, in lawful money of the United States, the monthly installment of annual Base Rent specified in Section 1.9. Base Rent shall be prorated on a daily basis for any partial calendar month within the Lease Term.

4.3 Base Rent During Extended Terms. The annual Base Rent for each Extended Term under this Lease shall be Five Hundred Thousand Dollars ($500,000), which amount is subject to the inflation adjustment in Section 4.5.

4.4 Additional Rent; Net Sales of Chihuly Fine Art. During each Extended Term only, in addition to Base Rent, Center Art shall pay Additional Rent in quarterly installments in the amount of 8% of Net Sales of Chihuly Fine Art. The term "Chihuly Fine Art" as used in this Lease shall mean Chihuly "Glass Editions and Prints" sold on the Premises, including orders taken at the Premises. The payment of Additional Rent shall be on or before the fifteenth (15th) day of each calendar quarter and shall be accompanied by the report under Section 10.1.2. As used in this Lease, "Net Sales" means Center Art's gross sales from Chihuly Fine Art, minus the following actual costs: applicable taxes, COGS, direct labor and operating expenses and credit card fees, if applicable. In no case shall "Net Sales" be less than twenty-five (25%) of gross sales for the purpose of calculating the Additional Rent. For example, if monthly gross sales of Chihuly Fine Art equal $80,000, the City would receive eight percent (8%) of actual net sales or eight percent (8%) of $20,000 (25% of $80,000), whichever is greater.

4.5 CPI Adjustments to Base Rent. As used in this Section 4.5, Lease Year means a period commencing on the Rent Commencement Date and ending twelve (12) full calendar months later. If the Rent Commencement Date is not the first day of a month, the first Lease Year will include the first partial calendar month in addition to the subsequent twelve calendar months, and the last Lease Year shall end on the Expiration Date. Beginning with the first payment of Base Rent due in the seventh (7th) Lease Year and thereafter annually on the first day of each subsequent Lease Year, the Base Rent in Section 4.3 shall be adjusted upward only by an amount equal to the total percentage change that occurred in the Consumer

Price Index for all Urban Consumers (CPI-U): Seattle-Tacoma; Bremerton, Washington Area, all items index (Reference Base 1982-84 =100) published by the Bureau of Labor Statistics of the United States Department of Labor ("CPI") between the first and last day of the immediately preceding Lease Year. City shall notify Center Art in writing at least one (1) month prior to the first payment of adjusted Base Rent of the estimated adjusted Base Rent amount. If the estimated CPI adjustment is less than the actual CPI adjustment, upon notice from City, Center Art shall include any additional amount of Base Rent owing in the next monthly installment of Base Rent. If the estimated CPI adjustment exceeds the actual CPI adjustment, upon notice from City, Center Art may apply any excess to the next monthly installment of Base Rent. By way of illustration, if the CPI is 100.0 on the first day of the sixth Lease Year and is 102.2 on the last day of the sixth Lease Year, the annual Base Rent for the seventh Lease Year shall be increased by 2.2% ($11, 000.41) to $511,000. Notwithstanding anything to the contrary set forth in this Section 4.5, the aggregate CPI increase in Base Rent applicable to any 5-year Extended Term shall be capped at a ten percent (10%) non-compounded increase. By way of illustration, the adjusted Base Rent due at any time in the first Extended Term shall not exceed the amount of $550,000, i.e., 10% of $500,000. Assuming the Base Rent due on the last day of the tenth (10^{th}) Lease Year is $550,000, the Base Rent in the second Extended Term (Lease Years 11 through 15) shall not exceed $605,000 (10% of $550,000). If during the Lease Term there is a change in the index base or other modification to the CPI index, the parties shall apply whatever conversion factor establishes the true percentage change in the CPI during the relevant time period.

4.6 Additional Charges. Whether or not so designated, all other sums due from Center Art under this Lease, including but not limited to the Artists at Play public benefit expenditure under Section 23.1 shall be payable as and when specified elsewhere in this Lease, but if not specified, then within ten (10) business days after written demand.

5. Late Charge; Interest.

If Center Art fails to pay City 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.

6. Security Deposit.

As partial consideration for this Lease and in order to induce the City to enter this Lease and to commit resources to the Project prior to the Rent Commencement Date, within ten days of receiving a fully executed Lease, Center Art shall provide the City with the Security Deposit specified in Section 1.10. If Center Art takes possession of the Premises and completes the construction of the Initial Improvements, the Security Deposit shall be applied to Center Art's Base Rent as specified in Section 1.10. If the Rent Commencement Date fails to occur, then City shall be entitled to retain the Security Deposit.

7. Contingencies

7.1 Preliminary Project Design. City and Center Art have agreed to the Preliminary Project Design attached hereto as Exhibit 4 depicting the location of Initial Improvements and

other improvements to the Premises and Project Improvement Area. Prior to the Commencement Date if the Preliminary Project Design is modified for any reason, including but not limited to the requirements of any governmental entity, Center Art shall submit a modified design for the Project ("Modified Project Design") to City for its review and approval which approval shall not be unreasonably withheld, conditioned or delayed. City and Center Art shall confirm in writing their approval of the Modified Project Design and following such confirmation shall enter into an amendment to this Lease to substitute the Modified Project Design for the Preliminary Project Design presently attached hereto.

7.2 Project Approvals. Center Art shall have received all required permits for demolition, clearing and grading work in connection with the Project without modifications or conditions that are unacceptable to Center Art, in Center Art's reasonable discretion, which permits shall have been issued in final and unappealable form ("Project Approvals"). So long as Center Art is diligently pursuing but has not obtained one or more of the Project Approvals by September 6, 2011, then Center Art, in its sole and absolute discretion, shall be entitled to extend the date to obtain the Project Approvals to not later than April 1, 2013, provided, however, that in no event shall any construction occur on the Premises (other than interior construction within any building on the Premises) during the time period April 1, 2012 through October 31, 2012 without the prior consent of the Director, it being understood that said time period coincides with the Seattle Center's World's Fair 50th Anniversary Celebration. Accordingly, the Director may elect to preclude construction on the Premises during the April 1, 2012 through October 31, 2012 time period and may impose reasonable conditions on the Project such as construction fencing or other screening of the Premises at Director's discretion.

The above contingencies shall be satisfied and the Commencement Date shall have occurred on or before the outside date of April 1, 2013, or either party shall be entitled to terminate this Lease upon sixty (60) days prior written notice and thereafter this Lease shall be of no further force or effect, the Security Deposit shall be retained by City, and neither party shall have any further rights or obligations hereunder except for those that are expressly stated to survive the termination of this Lease.

8. Warranties.

8.1 City. City represents, warrants and covenants that as of the Effective Date and the Commencement Date:

8.1.1 Power and Authority. City has the authority and power to enter into this Lease and to consummate the transactions provided for herein. This Lease and all other documents executed and delivered by City have been duly authorized, executed and delivered by City and constitute the legal, valid, binding and enforceable obligations of City. City has no defenses or offsets to the enforceability or validity of this Lease. The person executing this Lease on behalf of City has been duly authorized to do so.

8.1.2 Condemnation. To the Director's knowledge, there are no condemnation or eminent domain proceedings pending, nor are there any such proceedings that are

contemplated, against the Premises or any part thereof, nor has City taken any steps to commence, nor does City contemplate commencing, any condemnation or eminent domain proceedings against the Premises or that would otherwise impact the Project as described herein.

8.1.3 Compliance. To the Director's knowledge, the Premises comply with all applicable laws.

8.1.4 Hazardous Substances. To the Director's knowledge, the Premises have not been used for the generation, storage, transportation, treatment or disposal of any Hazardous Substances, no Hazardous Substances are presently on, under or near the Premises, and there is no pending or threatened action or proceeding that alleges the presence of, release or threat of release from or placement on, in or from the Premises of any Hazardous Substances. In addition, City has not placed any underground storage tanks on or removed any underground storage tanks from the Premises during the time period that the Premises have been owned by City.

8.2 Center Art Warranties. Center Art hereby represents, warrants and covenants that as of the Effective Date and the Commencement Date:

8.2.1 Power and Authority. Center Art has the authority and power to enter into this Lease and to consummate the transactions provided for herein. This Lease and all other documents executed and delivered by Center Art have been duly authorized, executed and delivered by Center Art and constitute the legal, valid, binding and enforceable obligations of Center Art. The person executing this Lease on behalf of Center Art has been duly authorized to do so.

8.2.2 No Violations or Actions. The execution, delivery and performance by Center Art of its obligations under this Lease will not conflict with or result in a breach of any law, ordinance, decree or order by which Center Art is bound, or any contract or other agreement to which Center Art is a party or by which Center Art is bound.

8.2.3 Agreement with Chihuly. The association of Chihuly with Center Art's exhibition space is a material inducement to City's entry into this Lease. Center Art represents and warrants that prior to the execution of this Lease it shall have entered into a business agreement with Chihuly allowing for the Premises and the Project to include exhibitions and sale of Chihuly artwork. Center Art shall use all reasonably commercial efforts to ensure that its association with Chihuly shall continue for the duration of the Term. If Center Art's association/business agreement with Chihuly terminates prior to the Expiration Date, Center Art shall promptly inform the Director in writing, but shall not otherwise be relieved or excused from fulfilling any obligations under this Lease, and Center Art shall be entitled to use the Premises as set forth in Section 2.3 or for any other substantially similar purpose with the written approval of the Director, which approval shall not be unreasonably withheld, conditioned, or delayed. To the extent that the Lease grants any exclusive rights applicable only to Chihuly or Chihuly artwork, such provisions shall no longer be a part of this Lease. Notwithstanding anything to the

contrary set forth herein, neither of Chihuly, Inc., Dale Chihuly and/or Portland Press shall have any obligations under this Lease nor any rights other than those expressly identified in this Lease.

8.2.4 License to Use Project Name. Prior to opening the Project to the general public, Center Art shall provide the Director with the final Project name and logo together with use requirements in connection therewith. For the duration of the Term, City shall have a non-exclusive license to use the Project name and logo consistent with the use requirements in all City informational, advertising, and promotional materials regarding Seattle Center that routinely include reference to resident institutions and organizations on the Seattle Center campus.

9. City Covenants.

From and after the Effective Date, City, as Landlord hereunder, covenants to perform in accordance with the following obligations:

9.1 Liens and Encumbrances. City shall not sell, assign or convey any right, title or interest whatever in the Premises to any third party other than in compliance with this Lease. Except for liens or encumbrances created by or through Center Art, or based upon impositions that are the responsibility of Center Art under this Lease, Center Art shall not be bound by any liens, restrictions, encumbrances or impositions on the Premises made without Center Art's prior written consent.

9.2 Warranties. City shall not take any action, or omit to take any action, which would have the effect of violating or rendering untrue any representation, warranty or covenant or other agreement contained herein. Prior to the Commencement Date City shall give Center Art prompt written notice of any change in any of City's representations or warranties set forth in Section 8.1 above.

9.3 No Change in Physical Condition. Prior to the Commencement Date, City shall keep and maintain the Premises in the same or similar condition as exists as of the Effective Date of this Lease and shall not permit any waste with respect thereto. City will not make any material change to the physical condition of the Premises except as consistent with the City's reserved rights under this Lease or as otherwise approved by Center Art.

9.4 Compliance With Laws. City shall not violate any federal, state or local laws, rules, statutes, ordinances or policies with respect to the Premises and shall at all times comply with all of the foregoing. City shall remain solely responsible and liable for any fines, penalties, enforcement orders or other liabilities accruing or arising as a result of the condition of the Premises prior to the Commencement Date unless expressly provided for otherwise herein.

9.5 Cooperation. Seattle Center and the Director shall cooperate with Center Art in good faith in connection with Center Art's efforts to procure all Project Approvals as further described herein.

9.6 Artworks and Inventory. City shall not at any time assert or claim any lien or ownership, whether during the Term of this Lease or at expiration or sooner termination, on any Artworks and Inventory. For purposes of this Lease, Artworks and Inventory means, collectively, Chihuly artwork (including, without limitation, Chihuly Fine Art and any new and existing glass art, paintings and drawings, artifacts and other artwork, assets or personal property owned or created by Dale Chihuly, Chihuly, Inc., their respective heirs, successors and assigns), other artworks, whether or not glass, created or owned by other artists or any other party, trademarks, copyrights, and other intellectual property rights related to any of the foregoing or the Project name, and inventories of merchandise for sale to the public, all as may be located in or about the Premises or Project Improvement Area from time to time. In addition, City covenants and agrees:

9.6.1 Center Art or the owner of the Artworks and Inventory shall have the right to remove any and all Artworks and Inventory from the Premises or Project Improvement Area upon the liquidation or sooner termination of the Lease.

9.6.2 Except as expressly permitted under Section 8.2.4, neither City nor Seattle Center shall use the Project name, the Chihuly name, or any description of the Artworks and Inventory in any advertising, marketing or promotion of the Project including, without limitation, printed media, text panels, video, website or other electronic media prepared by or on behalf of City or Seattle Center and intended for distribution or distributed, through any medium, to the public without the prior written approval of Center Art and, with respect to use of the Chihuly name or images of any Chihuly artwork, by Chihuly, Inc. Center Art shall use its best efforts to work cooperatively with Seattle Center to obtain any approvals required of Chihuly in connection with this Section 9.6.2.

9.7 Exclusive Sales Rights. For the term of this Lease, Center Art shall have the exclusive right to certain retail art sales at Seattle Center on the terms and conditions set forth in Section 11.5. City shall not knowingly permit any other venue or vendor at Seattle Center to sell any such items in violation of the exclusive rights granted to Center Art herein except as permitted under Section 11.5.

10. Reports; Records and Audits.

10.1 Reports. In addition to Rent, Center Art shall provide the City with the following reports.

10.1.1 Annual Report of Public Benefits and Amenities. On or before February 15 of each calendar year during the Term, Center Art shall submit to the Director a written statement, certified by an authorized officer of Center Art, in a form acceptable to the Director, setting forth in reasonable detail a description of public benefits or amenities provided during the preceding Lease Year as required by Section 23 and 24 of this Lease. The report shall include the dollar value attributable to such public benefits or amenities.

10.1.2 Additional Rent Report. On or before the fifteenth (15^{th}) day of each calendar quarter of any Extended Term, in addition to Base Rent, Center Art shall submit

to the Director a written statement, certified by an authorized officer of Center Art, setting forth in reasonable detail (a) the amount of Net Sales of Chihuly Fine Art on an aggregate basis for the preceding quarter, including a statement of Gross Receipts from such sales and the calculation of the allowed deductions; and (b) a computation of the Additional Rent due City based upon the prior quarter's Net Sales.

10.2 Reports and Audits. Center Art shall keep true, full, and accurate books of account setting forth Center Art's Gross Receipts from Chihuly Fine Art and all accounts affecting calculation of Net Sales and Additional Rent. Upon ten (10) days prior written notice, City shall be allowed to inspect Center Art's books of account pertaining to Net Sales of Chihuly Fine Art at Center Art's office and to procure audits thereof by an auditor at City's sole cost and expense (except as provided below). The Director shall notify Center Art if any audit reveals any over- or underpayment of any Additional Rent amounts due from Center Art under this Agreement for Net Sales. Any overpayment shall be a credit against any fees and charges subsequently due or shall be refunded to Center Art, at the Director's option. Any underpayment shall be immediately due and payable and shall be delinquent if not paid within ten (10) days after the date of such notice. If in the reasonable judgment of such auditor, Center Art's books of account are incomplete or improperly reflect the information necessary for an accurate determination of the Additional Rent, or if the audit shall show that the reports submitted by Center Art understated Center Art's Net Sales by more than the greater of (a) $25,000.00 or (b) ten percent (10%) thereof, for any month covered by the audit, the costs and fees for such audit shall be paid by Center Art to City. If an audit discloses any willful or intentional effort to understate Center Art's Net Sales, then, at City's option, Center Art may be required to pay City a penalty of the greater of $1,000.00 or two (2) times the amount of the understatement. Center Art shall retain all yearly books of accounting and any other information that relates to the determination of Additional Rent for each and every Lease Year throughout the Term for a period of six (6) years from the end of each Lease year. Center Art's obligations under this paragraph shall survive expiration or termination of this Lease.

11. Center Art's Operations and Rights Conferred Upon Center Art.

11.1 Use of Premises. Center Art shall use the Premises only for the Permitted Uses. City's willingness to enter into this Lease with Center Art was predicated, in part, on the nature of Center Art's business, and the compatibility of such business with the use of the remainder of the Seattle Center campus, and Center Art shall not use or permit the use of the Premises for any other business, or purpose, or under any other name, without the Director's prior written consent, which consent may be granted, withheld or conditioned in the Director's reasonable discretion. Center Art shall promptly comply, at its sole cost and expense, with such reasonable rules and regulations relating to the use of the Premises as Seattle Center from time to time may promulgate. Center Art shall maintain the Premises in a clean, orderly and neat fashion to conform with the standards of Seattle Center, permitting no objectionable odors or noises to be emitted from the Premises which would disturb or injure the occupant of any adjacent property, and shall neither commit waste nor permit any waste to be committed thereon. Center Art shall not permit any accumulation of trash on or about the Premises. Center Art shall not create or contribute to the creation of a nuisance in either the

Premises or on Seattle Center grounds and Center Art shall not engage in or permit any action that will disturb the quiet enjoyment of any other Seattle Center tenant or occupant.

11.2 Compliance with Laws.

11.2.1 Unlawful Use. Center Art 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 applicable to the Premises, or for any purpose offensive to the standards of the community of which the Premises are a part. Center Art 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.

11.2.2 Nondiscrimination. Without limiting the generality of the foregoing, Center Art agrees to and shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington and City of Seattle, including but not limited to Seattle Municipal Code Chapters 14.04, 14.10, and 20.42 as they may be amended from time to time, and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

11.3 Liens. Subject to Section 26, Center Art agrees that no liens of mechanics, materialmen, laborers, surveyors, engineers, architects, artisans, contractors, subcontractors, suppliers or any other lien of any kind whatsoever (a "Lien") shall be created against or imposed upon the Premises, and that in the event any such Liens shall be asserted or filed by any persons, firms or corporations performing labor or services or furnishing material or supplies in connection with the Initial Improvements, Center Art shall pay off in full or cause the Lien to be discharged of record within thirty (30) days of notification thereof. Center Art reserves the right to contest the validity or amount of any such Lien in good faith provided that, within thirty (30) days after the filing of such Lien, Center Art discharges said Lien of record or secures a bond which complies with the requirements of RCW 60.04.161. If Center Art fails to remove any Lien and/or secure a bond as described herein, City may take such action as City shall reasonably determine to remove such Lien and all reasonable costs and expenses actually incurred by City including, without limitation, amounts paid in good faith settlement of such Lien and attorneys' fees and costs, together with interest thereon, shall be paid by Center Art as Additional Charges.

11.4 Project Programming. Subject to City's reserved rights set forth in Section 2.7, Center Art shall have the unrestricted right to program the Premises for regular and special events that are reasonably compatible with Seattle Center's mission and programs, including major festivals Any such special events programming shall not preclude the general public from entry into the Project Improvement Area or Public Use Area.

11.5 Exclusive Rights. For the Term of this Lease, Center Art shall have the exclusive rights to retail sales at Seattle Center of any items possessing or containing logos, service marks or trademarks pertaining to the Project, or Chihuly art of any kind, or any other items

possessing or containing logos, service marks, trademarks, copyrights, publicity rights or other intellectual property rights pertaining to the Project or Chihuly art of any kind.

In addition, for so long as Center Art uses the Premises for the Permitted Uses, subject to the exceptions in (i) through (iv) below, the City shall not enter into a lease, sublease, lease amendment or assignment, or other agreement that grants any other party the right to operate at the Seattle Center a glass art exhibit or retail glass art space for other than temporary or short-term purposes, e.g. during a festival, travelling exhibition or seminar, nor shall the City itself offer a glass art exhibit or retail glass art space on the Seattle Center campus for other than temporary or short-term purposes. The exclusive rights identified in this Section 11.5 do not apply to any of the following:

(i) any other Seattle Center tenant or third party's rights existing prior to the Effective Date of this Lease, including any existing contractual rights to assign or extend an existing lease or other agreement;

(ii) the sale of a de minimis or negligible amount of glass souvenirs, memorabilia or other similar glass products;

(iii) one gallery located in the Center House, or such other location on Seattle Center campus as determined by the Director from time to time during the Term, where the City or its authorized user(s) shall have the right to exhibit and sell the artwork of local and Northwest artists on a rotating basis; and

(iv) Seattle Center festivals and temporary exhibits subject to the prior written approval of Center Art, which approval shall not be unreasonably withheld, conditioned or delayed. "Temporary" for the purpose of this Section 11.5 shall be defined as any venue on the Seattle Center grounds open to the public for a period of ninety (90) days or less. The exclusive rights in this section shall automatically terminate without further action by the City if Center Art ceases to use the Premises for the Permitted Uses, unless otherwise agreed to by the Director in writing.

11.6 Retail Sales. Center Art shall not offer for retail any food, beverage, items of merchandise, or service that the Director reasonably determines is unsafe; that portrays the City or Seattle Center or any aspect thereof in any incorrect, misleading, or unfavorable manner; that depicts or suggests in words, symbols, illustrations, or other forms, any act of violence, or any lewd, immoral, or obscene activity; is inappropriate for a family-oriented recreation and entertainment facility such as Seattle Center; or that may create a substantial litter or other maintenance problem at Seattle Center.

11.7 Hazardous Substances.

11.7.1 Center Art shall not, without City's prior written consent, keep on or about the Premises any substance designated as, 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 customary office, kitchen, cleaning and other related supplies in normal quantities or any supplies, materials or substances used in connection with the "hot shop" operation and handled in compliance with applicable laws. With respect to any Hazardous Substances

stored with City's consent, Center Art shall use all commercially reasonable efforts to promptly, timely and completely comply with all governmental requirements for reporting and record keeping; submit to City true and correct copies of all reports, manifests and identification numbers at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; within five (5) days after City's request therefor, provide evidence satisfactory to City of Center Art'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 City and associated with City's inspections of the Premises and City's monitoring of Center Art's compliance with the Hazardous Substances storage requirements of this Section 11.7.1, including City's attorneys' fees and costs, shall be Additional Charges and shall be due and payable to City within ten (10) days after City's demand therefor, if Center Art's material violation of the Hazardous Substances storage requirements of this Section 11.7.1 is discovered as a result of such inspection or monitoring.

Center Art shall be fully and completely liable to City 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 Center Art's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises following the Effective Date, with the exception of any such use, disposal, transportation, or other handling by Center Art of Hazardous Substances existing on the Premises as of the Effective Date as may be necessary in connection with Center Art's construction or development of the Project as otherwise provided for in Section 11.7.2 herein. Center Art shall indemnify, defend and hold City harmless from any and all of the costs, fees, penalties, charges and expenses assessed against, or imposed, upon City (as well as City's attorneys' fees and costs) as a result of Center Art's use, disposal, transportation, storage, generation and/or sale of Hazardous Substances on or about the Premises following the Effective Date, except as otherwise provided for in Section 11.7.2 herein.

11.7.2 The provisions of Section 11.7.1 shall not apply to any Hazardous Substances existing on, in or under the Premises as of the Effective Date, and discovered during the course of construction of the Project. Center Art and City agree that the construction agreement for the Project as referenced in Section 14.1 shall contain specific terms and conditions addressing the potential discovery of any Hazardous Substances during construction of the Project including but not limited to: (a) immediate notification to the Director of such discovery; and (b) coordination between Seattle Center and Center Art on a remedial work plan to address any required investigation, assessment, cleanup, removal, disposal, mitigation or monitoring in connection with any such Hazardous Substances consistent with any local, state or federal requirements ("Remedial Work Plan"). In addition, the Parties agree that if the estimated cost of the Remedial Work Plan is not more than $250,000, then Center Art shall be responsible at its sole cost and expense for the first Twenty-Five Thousand Dollars ($25,000.00) of the cost of the Remedial Work Plan activities, and City shall be responsible for the cost of any Remedial Work Plan activities that are greater than Twenty-Five Thousand Dollars ($25,000) up to Fifty Thousand Dollars ($50,000). Thereafter, the Parties shall equally split the cost of the Remedial Work Plan

activities up to Two Hundred Fifty Thousand Dollars ($250,000). At the Director's discretion, City's portion of any remediation costs may be in the form of a credit to Center Art against Center Art's Base Rent payments. Notwithstanding the foregoing, if the total estimated costs of the Remedial Work Plan exceed Two Hundred Fifty Thousand Dollars ($250,000.00), then the Parties shall immediately meet and in good faith discuss options for resolution that would allow the Project to proceed. If the Parties cannot agree on a mutually-acceptable resolution, then either party may notify the other party in writing of its intention to terminate this Lease at the end of thirty (30) days unless Center Art agrees to be solely responsible for the cost of Remedial Work Plan activities in excess of $250,000. In the event of such termination by either party, neither of the Parties shall have any further obligations under this Lease and Center Art shall restore the Premises to its condition immediately prior to the effective date of this Lease to the extent Center Art is permitted to undertake such restoration by any agencies with jurisdiction over the Hazardous Substances.

11.8 Service Loading. The Director shall make available to Center Art on, about and adjacent to the Premises such service and truck loading areas that Center Art may reasonably require in connection with construction, operation and maintenance of the Project, including for daily uses such as retail and café services, for periodic installation, removal and replacement of artwork and operation of the hot shop, and for banquet/special events as necessary. Center Art shall comply with all reasonable rules and regulations established by the Director governing loading activities.

11.9 Use of Seattle Center Name. Center Art shall have a non-terminable license and right to use of the name or phrase "at the Center" or "at the Seattle Center" in connection with the name of the Project and all related development, operation, promotion and advertising in connection therewith, by way of example only, "Glass and Gardens at the Seattle Center."

12. Utilities.

12.1 Utility Services. Center Art shall be responsible for the cost of all utility services provided to the Premises, except for and excluding those areas where City has reserved rights pursuant to Section 2.7. Center Art shall be responsible for any upgrading, improvement or modification of the existing utility services to the Existing Building and the Retail Building if and only to the extent necessary for Center Art's Permitted Uses. Center Art shall arrange for water and sewer, storm water drainage, electricity and telecommunications services to the Project and, to the extent feasible, shall cause all utilities to be separately metered. Center Art shall pay when due, directly to the appropriate company or to City based on metered readings and prevailing rates, all bills for HVAC and HVAC system maintenance, fire alarm, water, sewer, storm water drainage, electricity, data and telecommunications services for the Project. Notwithstanding the foregoing, if steam heat is generally available to the Project, then at Center Art's request and with the Director's approval, City shall provide steam heat to the Project during the same times and in the same manner and cost structure as provided other Seattle Center facilities.

12.2 Refuse Collection. Center Art shall provide at its own cost and expense all necessary housekeeping and janitorial services for the Premises, except for and excluding those areas where City has reserved rights pursuant to Section 2.7. Center Art shall arrange for private garbage and recycling services or may request that Seattle Center provide such services to the same extent as the Seattle Center provides to other resident tenants at the Seattle Center. In the latter case, Center Art shall pay City as an Additional Charge on or before the tenth (10th) day of each calendar month the reasonable cost of providing refuse collection to the Premises. Center Art shall comply with Seattle Center sorting and recycling standards. The City reserves the right to refuse to collect or accept from Center Art any waste product that is not sorted and separated as required by law, ordinance, rule or regulation, and to require Center Art to arrange for the collection of the same at Center Art's sole cost and expense using a contractor satisfactory to City. Center Art shall pay all costs, fines, penalties, and damages that may be imposed on City as a consequence of failure to comply with the provisions of this section. The City reserves the right to specify the location of all exterior waste receptacles, the means of access thereto, and the frequency of collection service.

12.3 Interruption. The City shall not be liable for any loss, injury or damage to person 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 City's reasonable control shall be deemed an eviction of Center Art or to relieve Center Art from any of its obligations hereunder or to give Center Art a right of action against City for damages. Center Art acknowledges that there may be planned utility outages affecting the Premises and that such outages may interfere, from time to time, with Center Art's use of the Premises. Seattle Center shall provide Center Art with not less than 48 hours' prior written notice of any Seattle Center-planned utility outage in the Premises. The City has no obligation to provide emergency or backup power to Center Art. 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 Center Art.

13. Licenses and Taxes.

13.1 Payment of Fees and Taxes. Without any deduction or offset whatsoever, Center Art shall be liable for, and shall pay prior to delinquency, all taxes, license and excise fees and occupation taxes applicable to the business conducted on the Premises and Center Art's leasehold interest in the Premises, and all personal property taxes and other impositions levied with respect to all personal property located at the Premises. Center Art shall remit to City the applicable leasehold excise tax each month together with Base Rent as and when payable under Section 4.1.

13.2 Contests. Center Art 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 Center Art of its covenant to pay any such taxes. City shall not be subjected to any liability or for the payment of any costs or expenses in connection with any such proceeding brought by Center Art, and Center Art hereby covenants to indemnify and hold

City harmless from any such costs or expenses. The indemnification obligation of this Section shall survive the expiration or earlier termination of this Lease.

14. Initial Improvements; Subsequent Alterations; Ownership.

14.1 Initial Improvements. The parties acknowledge and agree that the renovation of the Existing Building and the Project Improvement Area and opening of a Chihuly exhibit for the Seattle Center's World's Fair 50th Anniversary Celebration is a material inducement to City's entry into this Lease. Center Art agrees to use commercially reasonable efforts to complete the Initial Improvements as depicted in Exhibit 4 hereto, including the improvements to the Project Improvement Area, and to obtain a certificate of occupancy for the Project by April 1, 2012, subject to Events of Force Majeure as set forth in Section 36 or other causes beyond Center Art's reasonable control. Prior to commencing construction, the Seattle Center and Center Art will execute a separate construction agreement that details the locations for temporary construction staging, stockpiling, and access, agreed upon timelines, and additional terms and conditions generally applicable to construction at Seattle Center. As part of the construction agreement, Center Art acknowledges and agrees that it will be required to (a) maintain a builder's risk insurance policy; (b) to ensure that all its contractors carry liability insurance reasonably acceptable to the City risk manager and naming City as an additional insured; (c) within six (6) months of completion of construction provide City with final 'as-built' drawings of the Project; and (d) defend, indemnify and hold City harmless from any and all claims, damages and liabilities arising from Center Art's construction activities (except as otherwise set forth in Section 11.7.2), and the activities of its contractors, agents, employees and invitees, with the exception of any claims, damages or liabilities caused by or relating to any breach or default in the performance of any obligation on the City's part to be performed under the terms of this Lease, arising out of or relating to any breach of any representation or warranty made by City under this Lease, or arising out of or relating to any actual or alleged negligent act or omission or any willful misconduct of the City or its officers, employees or agents. Center Art and the City agree that the construction agreement shall provide, among other things, that Seattle Center shall forego any reimbursement for its staff and administrative costs associated with the Project.

14.2 City Approval of Design and Landscaping Disruption. The design of the Initial Improvements shall be in substantial conformance with Exhibit 4 attached hereto and otherwise with the Seattle Center Century 21 Design Guidelines. Additionally, the improvements to the Project Improvement Area shall also conform with Seattle Center Construction Site Standards. Center Art shall not commence the Initial Improvements in or around the Premises without first submitting to the Director professionally prepared plans and specifications for the work and obtaining the Director's prior written approval, which will not be unreasonably withheld, conditioned or delayed. Center Art covenants that it will cause all alterations, additions and improvements to the Premises to be completed at Center Art's sole cost and expense by a contractor reasonably acceptable to the Director, and in a manner that is consistent with Director-approved plans and specifications and any conditions reasonably imposed by the Director. Additionally, Center Art shall not remove any trees or disrupt any existing landscaping without the prior written approval of the Director. Any plans and

specifications for the Project shall be the sole property of Center Art, subject to any rights of the architect.

14.3 Environmental Review and Permits. Seattle Center shall be the lead agency for compliance with the State Environmental Policy Act for purposes of the Lease. Center Art shall be responsible for obtaining all permits necessary for construction of the Project, and for completing any environmental review or documentation required relating to construction.

14.4 Subsequent Alterations. After completion of the Initial Improvements, Center Art shall not make any alterations, additions or improvements in or to the Premises without first submitting to the Director professionally prepared plans and specifications for such work and obtaining the Director's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed.

14.5 Ownership of Initial Improvements. During the Term of the Lease, Center Art shall retain ownership of all Initial Improvements to the Premises, including the Glass House, pedestrian canopy and any and all of Center Art's personal property and any Artworks and Inventory as defined in Section 9.6 above regardless of when or where located, with the exception of any landscaping and pedestrian pathway improvements installed within the Project Improvement Area, all of which shall be the property of the City upon completion of construction. City waives any statutory or common law landlord's lien in all Initial Improvements to the Premises or any of Center Art's property therein, including but not limited to the Artworks and Inventory. Upon the expiration or termination of this Lease, Center Art shall remove, at its expense, all capital improvements made to the Premises by Center Art, with the exception of any specific capital improvements the Director indentifies in writing which shall remain and become the property of City without need for reimbursement to Center Art; provided, however, that under no circumstances shall any such capital improvements include or be deemed to include any Artworks and Inventory or any other artwork installed within the Premises or Public Use Area, whether attached or not, all of which shall be considered personal property, and the City shall have no ownership rights thereto. Reasonable access and temporary use of the Premises and Public Area shall be granted by City to facilitate removal of any Artworks and Inventory at the end of the Term of the Lease.

15. Care of the Premises.

15.1 Custodial Service for Premises.

15.1.1 Center Art. Except as set forth in subsection 15.1.2, Center Art shall at its own expense, at all times, keep the Premises in a neat, clean, safe, and sanitary condition, and otherwise in good presentable condition. Center Art shall furnish all cleaning supplies, materials and janitorial services needed to maintain and operate the Premises in the manner prescribed in this Lease.

15.1.2 City. City shall at its own expense, at all times, keep the Public Use Area in a neat, clean, safe and sanitary condition, free of litter and clean of spills, all to the same

standard employed throughout the Seattle Center campus and grounds. In addition, City or its authorized users shall be responsible for all custodial services to the Mural Support Space and Monorail Space.

15.2 City's Repairs and Maintenance. Throughout the Term of the Lease, with respect to the wastewater and sewer lines serving the Premises, City shall be responsible for those services up to the point of entry to a building except for any wastewater or sewer lines relocated or installed by Center Art. With the exception of any Artworks and Inventory installed by or on behalf of Center Art within the Public Use Area, City shall be responsible for maintaining the Public Use Area and other areas immediately adjacent to the perimeter of the Premises, including the landscaping and improvements made by Center Art in the Project Improvement Area. City and Center Art agree that City shall maintain all landscaping within the Project Improvement Area in compliance with the Seattle Center Landscape Management Plan as it may be amended from time to time and incorporated herein by this reference ("Seattle Center Landscape Management Plan"). Notwithstanding the foregoing, Center Art shall reimburse City for all damage done to portions of the Premises in which City has reserved rights pursuant to Section 2.7 to the extent caused by any act or omission of Center Art or any of Center Art's officers, contractors, agents, invitees, licensees or employees, including, but not limited to, the cracking or breaking of glass owned by City.

15.3 Center Art's Repairs and Maintenance. Throughout the Term of the Lease, and except for and excluding any portions of the Premises in which City has reserved rights pursuant to Section 2.7, Center Art shall perform all routine and major maintenance and repairs of the Premises, including utility systems, roof, exterior windows and exterior walls, and shall make such necessary and prudent investments in the Premises as may be required to preserve the building asset and to maintain it to a standard comparable to its existing condition as of the Effective Date. Center Art shall maintain all landscaping on and within the Premises (except for and excluding any portions of the Premises in which City has reserved rights) in compliance with the Seattle Center Landscape Management Plan. If Center Art fails to repair and maintain the Premises as required by this Section 15, then the Director shall provide Center Art with written notice specifying the nature of the failure. If Center Art shall fail to repair and maintain to the Director's reasonable satisfaction within thirty days' of the date of written notice to Center Art, then at its option City may, but is not required to, undertake such repair or maintenance, and shall invoice Center Art for the entire actual and reasonable cost, including associated administrative fees. City shall have the right to enter the Premises for such purposes. Center Art shall promptly pay the invoiced amount as an Additional Charge but the same shall not constitute a Default hereunder so long as Center Art pays the Additional Charge within the specified time period, subject to Section 35. If, however, the nature of such failure requires more than thirty (30) days for correction, City will have no self-help right under this Section if Center Art commences the repair or maintenance within 30 days of written notice and diligently pursues the correction to completion.

16. Installation of Building Art.

16.1 Installation or Integration of Works of Visual Art on Premises. The City acknowledges the Permitted Uses under this Lease permit Center Art to install on or otherwise physically integrate into the Premises (e.g. embedded in walls or fences and other physical structures in and around the Project) "works of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended ("VARA"). All or any of such works of visual art may be periodically removed, replaced or modified at any time by Center Art during the Term of this Lease or, subject to mutual agreement of Center Art and the Director, donated or designated for donation to the City at the expiration of the Lease. If removal of any such works of visual art is reasonably likely to result in its distortion, mutilation, modification or destruction as defined and described in VARA (hereinafter referred to as "Building Art"), and regardless of who shall own the Building Art upon Lease termination or expiration, Center Art shall not install or integrate any such Building Art at the Premises unless Center Art, prior to such installation, delivers to the Director an executed waiver of the creator's right of integrity regarding such Building Art, for the benefit of City and its successors and assigns, in a form substantially similar to the form of waiver attached hereto as Exhibit 5.

Notwithstanding anything to the contrary contained herein, Building Art shall constitute only such artwork identified in writing as such pursuant to this Section 16.

16.2. Center Art's Indemnification of City against Liability under Visual Artists Rights Act of 1990. Center Art shall protect, defend, and hold City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any Building Art on or into the Premises by Center Art and/or Chihuly in connection with the Project; or (b) the destruction, distortion, mutilation or other modification of any Building Art in the Premises by Center Art and/or Chihuly in connection with the Project that results by reason of its removal; or (c) any breach of Section 16.1 of this Lease; or (d) any material and intentional violation of VARA by Center Art or any of its officers, employees or agents in connection with Building Art installed or integrated into the Premises in connection with the Project. This indemnification obligation shall exist regardless of whether City or any other person employed by City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

17. Continuous Operation.

Center Art shall not leave the Premises unoccupied or vacant during any applicable Term of the Lease. Except for the period necessary to complete any approved remodeling, improvements, or temporary closures for repair or maintenance, and subject to Events of Force Majeure or periods of damage or destruction, Center Art shall keep the Premises open and use them to transact business with the public on such days and during such minimum hours as may be designated by the Director from time to time. Center Art shall immediately close if the Director reasonably determines there is an emergency endangering the health or safety of the general public or any Seattle Center staff or occupants.

18. Surrender of Premises.

18.1 General Matters. At the expiration or sooner termination of the Lease Term, Center Art shall deliver the Premises (except for and excluding any portions of the Premises in which City has reserved rights pursuant to Section 2.7) to City in an "as is-where is" condition, with all faults, latent and patent, without representation or warranty but broom clean and subject to Center Art's compliance with Section 11.2 (without any obligation to update or retrofit the Premises) as of the date of surrender. Prior to such delivery, Center Art shall remove its moveable trade fixtures and appliances and equipment, all capital improvements as required under Section 14.5, and shall repair any material damage resulting from such removal. Center Art shall indemnify City for the actual and reasonable damages and losses suffered as a result of Center Art's failure to redeliver the Premises on a timely basis in the condition required herein. Center Art's obligations under this Section 18 shall survive the expiration or termination of this Lease.

18.2 Cable and Wiring. Upon expiration or termination of this Lease and at the Director's request, Center Art shall if commercially reasonable remove all voice and data communication and transmission cables and wiring installed by or for Center Art to serve any telephone, computer or other equipment located in that portion of the Center Art's renovations to the Existing Building, which wiring and cabling shall include all of the same Center Art installed within the interior and exterior walls and through or above the ceiling or through or below the floor of such portion of Center Art's renovations to the Existing Building. Center Art shall leave the mud rings, faceplates and floor boxes in place.

18.3 Abandoned Property. The City may, at its election, retain or dispose of in any manner any of Center Art's moveable trade fixtures, appliances, equipment, capital improvements not specifically allowed to remain, Artwork and Inventory, and other personal property (collectively, "Personal Property") that Center Art does not remove from the Premises at the expiration of the Term or within ten (10) days after termination of the Term. City will give written notice to Center Art specifying the Personal Property to be removed and requesting removal, and if Center Art does not remove the Personal Property within ten (10) days from the date of notice, the Personal Property will be deemed abandoned by Center Art and title to the Personal Property shall vest in the City. The Director may retain or dispose of the Personal Property in the Director's discretion. Center Art waives all claims against the City for any damage to Center Art resulting from retention or disposition of any Personal Property not removed by Center Art as required under this Section 18. Center Art shall be liable to City for City's actual and reasonable costs for storing, removing and disposing of any abandoned Personal Property.

19. Indemnification; Release.

19.1 Center Art's Indemnification. Except as otherwise provided in this Section 19, Center Art shall indemnify (to the extent permitted by law), defend (using legal counsel reasonably acceptable to City) and save City, City's officers, agents, employees and contractors harmless from all claims, suits, losses, damages, fines, penalties, liabilities and expenses (including City's actual and reasonable personnel and overhead costs and attorneys' fees and other costs incurred in connection with 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 (a) Center Art's occupation, use or improvement of the Premises, or that of any of its employees, guests, invitees, licensees, agents or contractors, (b) Center Art's breach of its obligations hereunder, or (c) any act or omission of Center Art or of any officer, agent, employee, guest or invitee of any of Center Art in or about the Premises. Center Art agrees that the foregoing indemnity specifically covers actions brought by its own employees. Center Art's defense and indemnity obligation shall survive the expiration or termination of this Lease. Center Art shall promptly notify City of casualties or accidents occurring in or about the Premises.

19.2 City Indemnification. Except as otherwise provided in this Section, City shall indemnify (to the extent permitted by law), defend (using legal counsel reasonably acceptable to Center Art) and save Center Art, Center Art's officers, directors, members, agents, employees, and contractors harmless from all claims, suits, losses, damages, fines, penalties, liabilities and expenses (including Center Art's actual and reasonable personnel and overhead costs and attorneys' fees and other costs incurred in connection with such 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 any breach or default in the performance of any obligation on City's part to be performed under this Lease, arising out of or relating to any breach of any representation, warranty or covenant made by City under this Lease, or arising out of or relating to any actual or alleged negligent act or omission or any willful misconduct of City or any of its officers, employees, agents, tenants, licensees or contractors. City agrees that the foregoing indemnification specifically covers actions brought by its own employees. Center Art's defense and indemnity obligation shall survive the expiration or termination of this Lease. City shall promptly notify Center Art of casualties or accidents occurring in or about the Premises.

19.3 Waiver of Immunity. Solely with respect to claims for indemnification under this Lease, the City and Center Art waive, as to the other only and expressly not for the benefit of their employees or third parties, their immunity under Title 51 RCW, the Industrial Insurance Act, and acknowledge that this waiver has been mutually negotiated by the parties.

CITY AND CENTER ART ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF THIS LEASE WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

19.4 Center Art's Release of Claims. Except in the event of City's gross negligence or intentional misconduct, Center Art hereby fully and completely waives and releases all claims against City to the extent a loss or damage is covered by insurance for any losses or other damages sustained by Center Art or any person claiming through Center Art resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of building equipment; any failure to make repairs; any defect, failure, surge in, or interruption of building facilities or services; broken glass; water leakage; the collapse of any building component; or any act, omission or negligence of subtenants or any other persons or

occupants of the building. Additionally, the placement and storage of all artwork, personal property, trade fixtures, capital improvements and inventory, Artworks and Inventory (collectively, "Personal Property") in the Premises shall be the responsibility, and at the sole risk, of Center Art. Center Art hereby releases the City from any and all claims arising from any loss of or damage to Personal Property at the Premises. Nothing in this Section 19.4 shall be construed so as to limit the City's obligations under Section 19.2.

20. Insurance.

20.1 Acquisition of Insurance Policies. At its own cost except as provided in Section 20.6, Center Art shall procure and maintain in full force and effect at all times beginning on the Commencement Date and ending on the Expiration Date of this Lease the insurance coverage as set forth in this Section 20.1, or as applicable cause its contractors to procure and maintain, the insurance coverage as set forth in this Section 20.1.

20.1.1. Center Art Furnished Coverages and Limits of Liability: Center Art shall, at no expense to the City, maintain in full force and effect at all times beginning on the Commencement Date and ending on the Expiration Date of this Lease, insurance as specified below.

(a) Commercial General Liability insurance including
- Premises/Operations
- Personal/Advertising Injury
- Contractual Liability
- Independent Contractors
- Stop Gap/Employers Liability
- Host Liquor Liability

Limits of liability shall be not less than $5,000,000 each occurrence, bodily injury and property damage combined single limit (CSL) except:

- $ 1,000,000 each offense - Personal/Advertising Injury
- $ 1,000,000 each accident - Disease Stop Gap/Employers Liability

(b) Business Automobile Liability insurance including coverage for owned, non-owned, leased or hired vehicles with a minimum limit of liability of $1,000,000 each occurrence, combined single limit bodily injury and property damage.

(c) Workers Compensation insurance in accordance with Title 51 of the Revised Code of Washington (RCW).

(d) Property Insurance.

1. All Risks Property insurance on a replacement cost basis, including earthquake and flood perils (to the extent reasonably and affordably available in the marketplace), covering (a) the Existing Building and the Glass House, and (b) the Retail Building. Such insurance shall include Time Element coverage with sufficient limits to provide for loss of revenues and additional expenses during an interruption of Center Art's activities due to damage to or loss of the Premises.

2. If required by Center Art's All Risk Property Insurance, such insurance shall be placed on a Builder's Risk basis on (a) the Existing Building and the Glass House during the period of Initial Improvement, and (b) the Retail Building during improvements to those portions of the Premises.

20.1.2. Center Art Contractor-Furnished Coverages and Limits of Liability: Center Art's contractor, at no expense to the City, shall maintain in full force and effect insurance as specified below at all times during the period of (a) Initial Improvements, (b) improvements to the Existing Retail Space, and (c) during removal of capital improvements made to the Premises by Center Art pursuant to subparagraph 14.5:

(a) Commercial General Liability insurance including
- Premises/Operations
- Contractual Liability
- Independent Contractors
- Stop Gap/Employers Liability

Limits of liability shall be not less than $1,000,000 each occurrence, bodily injury and property damage combined single limit (CSL) except $1,000,000 each accident - Disease Stop Gap/Employers Liability.

(b) Business Automobile Liability insurance including coverage for owned, non-owned, leased or hired vehicles with a minimum limit of liability of $1,000,000 each occurrence, combined single limit bodily injury and property damage.

(c) Workers Compensation insurance in accordance with Title 51 of the Revised Code of Washington (RCW).

20.1.3. General Conditions (Do not apply to Workers Compensation insurance):

(a) Except with respect to Workers' Compensation insurance, any self-insured retention in excess of $25,000 must be disclosed and is subject to the City's approval. Center Art shall be responsible for paying any claims that fall within amount of the self-insured retention and provide detailed information as to how and to whom the City should direct any notice or tender of claim.

(b) The City reserves the right to approve any insurer, form or type of coverage. Unless the City approves otherwise, all insurers shall be licensed to do business in the State of Washington and rated A-:VII or higher in the current A.M. Best's Key Rating Guide; or issued as surplus lines under the provisions of chapter 48.15 RCW by a Washington State licensed broker.

(c) "The City of Seattle" shall be named as an additional insured on the CGL and Business Automobile Liability policies for primary and non-contributory limits of liability.

(d) "The City of Seattle" shall be included as an "additional insured" or "additional named insured" on the property insurance coverage (including Builders Risks) as its interests may appear on the Existing Building and the Retail Building.

(e) City reserves the right to periodically review the appropriateness of coverages and/or limits of liability in view of inflation and/or changing industry conditions and to reasonably require an increase in such coverages and/or limits of liability upon ninety (90) days' written notice to Center Art provided such increases are reasonable with respect to market practices.

(f) If Center Art fails to maintain insurance as required herein, the City may procure the same and charge Center Art for the full expense thereof, which Center Art shall pay upon demand. Provided, however, that the City may not take such action until after the City has provided Center Art with written notice of such failure and Center Art has failed to remedy such failure within ten (10) days of receiving such notice.

(g) Center Art shall not keep or use in or about the Premises any article or substance that is prohibited by any Center Art or City insurance policy. Center Art shall pay immediately any increase in City's premiums for insurance during the term of this Lease that results from Center Art's use of the Premises.

(h) Center Art shall incorporate by reference or otherwise this Insurance Exhibit it its prime contract agreement(s).

20.1.4. Evidence of Insurance

(a) Except with respect to Workers' Compensation insurance, before occupying the Premises, Center Art shall provide City with certification of

insurance that it has complied with the requirements hereunder, including coverages, limits of liability and other terms and General Conditions specified herein.

(b) As respects CGL insurance, evidence of insurance for Center Art and Center Art's prime contractor(s) must include a copy of the actual additional insured policy provision that documents that "The City of Seattle" is an additional insured for primary and non-contributory limits of liability.

(c) In the event that the City tenders a claim to the liability insurers of Center Art or Center Art's prime contractor(s) and reservation of rights is invoked or the claim is denied, upon the City's written request, Center Art and Center Art's contractor shall provide a true and complete copy of the requested insurance policy.

(d) As respects all coverages, each policy must include a policy provision that specifies that coverage will not be cancelled without at least thirty (30) days' prior written notice of cancellation having been delivered to the City, except for non-payment of premium, in which case cancellation may occur upon ten (10) days' prior written notice. Cancellation notice shall be sent via first class U.S. mail to the address set forth in Article 4.E. below, Attn: Risk Management Department.

(e) The certificate holder shall be:
The City of Seattle c/o Seattle Center
305 W. Harrison St., Room 109
Seattle, WA 98109

(f) Center Art shall request that its insurer or broker, as applicable, deliver the required certification electronically as an email attachment in PDF or XLS format to riskmanagement@seattle.gov, with an electronic copy to SCAccounting@seattle.gov.

(g) Evidence of Insurance documents transmitted to the City of Seattle shall constitute original copies. ORIGINAL HARD COPY CERTIFICATION IS NOT REQUIRED AND SHALL NOT BE SENT.

20.2 Limitation of Liability. The insurance required by this Lease shall not be deemed to limit, release or diminish the liability of City or Center Art, as applicable, including, without limitation, any liability pursuant to the indemnities set forth in Section 19 hereof. The damages recoverable by a party shall not be limited by the amount or scope of coverages required by this Lease.

20.3 Insurance Proceeds. All insurance proceeds due from the insurance policies procured pursuant to the provisions of this Lease shall be distributed as specified below, or if not so specified, to the party who acquired such insurance.

20.3.1 Property Insurance Proceeds-Application to Restoration. In the event of any damage to or destruction of any improvements at the Premises, if Center Art does not proceed with repair, replacement, reconstruction or rebuilding, any such property insurance

proceeds received and held by Center Art (or by the Leasehold Mortgagee if the Premises are then encumbered by a Leasehold Mortgage and the Leasehold Mortgagee so requires) and not used for repair, replacement, reconstruction or rebuilding shall be disposed of as follows:

(a) First, unless Center Art has already satisfied its obligation to remove its capital improvements pursuant to Section 14.5 hereof, City shall be awarded an amount reasonably estimated to satisfy such obligation. Such amount may be paid directly to City by the insurance company or otherwise paid to City and, upon receipt, Center Art shall be deemed to have fully satisfied its obligation to so remove capital improvements.

(b) Second, to Center Art, subject to the terms of any Leasehold Mortgage then in effect.

20.4 Waiver of Subrogation. Center Art hereby releases and relieves the City from responsibility for, and waives its entire claim of recovery for any loss resulting from business interruption at the Premises or loss of income or any loss or damage to the real or personal property located anywhere on or under the Premises or Public Use Area arising out of or incident to the occurrence of any of the perils which are covered by any insurance policy or which would have been covered by the insurance required hereunder, including amounts falling within the deductible of any such insurance. Center Art shall cause its insurance carriers to consent to such waiver and to waive all rights of subrogation against the City. City hereby releases and relieves Center Art from responsibility for, and waives its entire claim of recovery for any loss resulting from business interruption at the Premises or loss of income or any loss or damage to the real or personal property located anywhere on or under the Premises or Public Use Area arising out of or incident to the occurrence of any of the perils which are covered by any insurance policy under which the City has a right to such coverage by virtue of its procurement of such insurance or its status as any type of insured (named insured, loss payee, additional insured, or likewise) under insurance procured by any third-party, including amounts falling within the deductible of any such insurance. To the extent that the City has the right or authority to do so under such insurance, City shall cause the issuing insurance carrier(s) to consent to such waiver and to waive all rights of subrogation against Center Art.

20.5 Applicable Laws. The releases and waivers set forth in this Section 20 shall be subject to the applicable laws of the State of Washington. In the event that the releases and/or waivers set forth in this Section 20 are broader than what is permissible under applicable laws of the State of Washington, then the releases and waivers set forth in this Section 20 shall be interpreted to be only as broad as is legally permissible.

20.6 Allocation of Insurance Premium For City-Occupied Portions of Premises. The Property Insurance required by Section 20.1.1(d) will extend and apply to portions of the Premises that will be occupied by the City during the Term of this Lease. Center Art shall be entitled to an annual credit against Base Rent for a portion of Property Insurance premiums paid by Center Art. The amount of such credit shall be determined pro rata, by applying the same proportion of the annual premium for the Property Insurance premium that the portion

(in square feet) of the Premises occupied by the City bears to the total square footage of the Premises. Such rent credit shall be applied and realized by Center Art in the month immediately following the month during which the annual premium for the Property Insurance has become paid in full. Center Art shall provide reasonably available proof of such payment in full at the City's request.

21. Condemnation.

21.1 Total Taking. In the event of the taking or condemnation by any competent authority of the whole of the Premises at any time during the Term (a "Total Taking"), the right of City and Center Art to share in the proceeds of any award for the Premises, the Improvements and damages upon any such Total Taking shall be as follows:

21.1.1 Termination of Lease. The Term shall cease as of the date of possession by the condemnor and all Rent shall be apportioned as of the date of possession by the condemnor as provided for herein.

21.1.2 Removal of Improvements. There shall be paid from the condemnation award any expenses required with respect to the removal of Center Art's capital improvements as required by Section 14.5 of this Lease upon termination of the Lease, unless City, in its capacity as a governmental entity, is the condemning authority, in which case, City shall be responsible, at its sole cost and expense and without reducing any condemnation award paid to Center Art, for the cost of the removal of such capital improvements.

21.1.3 City's and Center Art's Shares. City and Center Art shall each receive the present value of their respective interests in the Leasehold Estate and Project improvements, together with interest thereon from the date of taking to the date of payment at the rate paid on the award, and attorney's fees and other costs to the extent awarded. The present values of City's and Center Art's respective interests in the Leasehold Estate and Project improvements shall be established by the same court of law or other trier of fact that establishes the amount of the condemnation award, but if there is no court of law available or willing to so determine City's and Center Art's respective interests, those interests shall be resolved by the dispute resolution provisions of Section 35 of this Lease. Such value shall be determined without regard to any early termination of the Lease and shall assume all Extended Terms have been exercised.

21.2 Partial Taking. In the event of a partial taking or condemnation of the Premises that is not a Total Taking or a temporary taking (a "Partial Taking"):

21.2.1 Termination Right. If there is a Partial Taking of a Material Portion of the Premises (as defined below), Center Art (with the consent of any Leasehold Mortgagee) shall have the right, to be exercised by written notice to City no later than the date that is sixty (60) days after the date of the Partial Taking, to terminate this Lease as to such remaining part of the Premises not so taken on a date to be specified in said notice but in any case not earlier than the date of such Partial Taking. In such case Center Art shall pay and satisfy all Rent and other charges due and accrued hereunder up to the date of

termination and shall perform all of the obligations of Center Art hereunder to such date, with the exception of any obligation that by its express terms survives termination. Any controversy with respect to Center Art's determination as to whether a Partial Taking constitutes a taking of a Material Portion of the Premises shall be resolved pursuant to Section 35 of this Lease and until so resolved this Lease shall remain in full force and effect; provided, however, that if such proceeding affirms that a taking affects a Material Portion of the Premises and as such, Center Art has the right to terminate this Lease, then such termination shall be effective as of the date on which Center Art delivered its termination notice to City pursuant to this Section 21.2.1, and City shall reimburse Center Art, within five (5) business days following such determination, for any Rent paid by Center Art during the pendency of such proceeding. Failure to so notify City within said sixty (60) days shall be deemed a waiver of said termination right by Center Art. If City (or other condemning authority) shall following such termination notice and prior to the date of the actual taking, modify the taking or condemnation to avoid the same or substantially limit the extent of the taking or any adverse impact that may have been caused, so that the taking shall not occur or that it will be performed in a manner that will not constitute a taking of a Material Portion of the Premises, then Center Art's termination right shall be waived and this Lease shall continue in full force and effect. Center Art shall cooperate with City's efforts hereunder to avoid or limit the impact of any such taking, so that, to the extent possible, the same shall not cause a termination of this Lease.

As used in this Section 21 a "**Material Portion of the Premises**" shall mean (a) any material portion of the Existing Building as renovated, the Glass House or the Exhibit and Garden Area, or (b) any portion of the Premises or access thereto that permanently prevents or impairs Center Art's ability to access or use the Premises for the Permitted Uses.

21.2.2 Rent Abatement. If this Lease is not terminated pursuant to Section 21.2.1 above, then the Term of this Lease shall continue and annual Base Rent to be paid by Center Art hereunder shall thereafter be reduced or abated to the extent of any diminution of the Premises in connection with the partial taking.

21.2.3 Award. Any award paid in respect of a Partial Taking, whether this Lease continues or is terminated, shall be divided and shared by City and Center Art as provided in Section 21.1.3 hereof.

21.3 Temporary Taking. If the whole or any part of the Premises or of Center Art's interest under this Lease is taken or condemned by any competent authority for its temporary use or occupancy, (a) Center Art shall continue to pay, in the manner and at the times herein specified, the full amounts of the Base Rent and other charges payable by Center Art hereunder, (b) this Lease shall continue and, (c) except only to the extent that Center Art may be prevented from so doing pursuant to the terms of the order of the condemning authority, Center Art shall perform and observe all of the other terms, covenants, conditions and obligations hereof upon the part of Center Art to be performed and observed as though such taking or condemnation had not occurred. In the event of any such temporary taking or condemnation, Center Art shall be entitled to receive the entire amount of any award made for such taking, whether paid by way of damages, rent or otherwise, unless such period of

temporary use or occupancy shall extend to or beyond the expiration date of the Term of this Lease, in which case such award shall be apportioned between City and Center Art as of such date of expiration of the Term.

21.4 City as Condemning Authority. Notwithstanding anything contained in this Lease to the contrary, if City is the governmental entity that initiated such taking or condemnation, then Center Art shall be entitled to retain the entirety of any award for Center Art's leasehold interest in the Premises, the Project improvements and damages thereto.

22. Damage or Destruction During Term of Lease.

22.1 Repairs, Alterations and Further Improvements. In the event of damage to or destruction of any or all of the Project improvements (excluding therefrom ordinary wear and tear requiring maintenance and routine repairs) during the term of this Lease, this Section 22 shall apply.

22.2 Minor Damage or Destruction. If the cost of repairing or reconstructing the Project improvements to the condition and form prior to such damage or destruction does not exceed $250,000 ("Minor Damage"), Center Art shall promptly commence and thereafter diligently complete such repair and reconstruction of the portion of the Project improvements so damaged or destroyed to substantially its condition prior to the occurrence of such Minor Damage with such alterations as Center Art shall reasonably determine prudent or valuable under the circumstances, including any changes required to comply with applicable law and with the then prevailing construction practices and together with such other changes that Center Art may request, provided such other changes are approved by the Director acting reasonably. City and Center agree that the proceeds derived from insurance maintained pursuant to Section 20 shall be made available to effect such repair.

22.3 Major Damage or Destruction. If the cost of repairing or reconstructing the Project improvements to the condition and form prior to such damage or destruction exceeds $250,000 ("Major Damage"), then within ninety (90) days after the casualty event giving rise to such Major Damage, Center Art shall notify City of Center Art's election either to repair such Major Damage and reconstruct the Project improvements in accordance with Section 22.4 below, or to terminate this Lease and remove Center Art's capital improvements in accordance with Section 14.5.

22.4 Repair and Reconstruction of Major Damage. If Center Art elects to repair Major Damage and reconstruct the Project improvements, Center Art shall promptly after such election and diligently thereafter effect such repair and reconstruction of the portion of the Project improvements so damaged or destroyed to substantially its condition prior to the occurrence of such Major Damage with such alterations as Center Art shall reasonably determine prudent or valuable under the circumstances, provided such other changes are approved by the Director acting reasonably. City and Center Art agree that the proceeds derived from insurance maintained pursuant to Section 20 shall be made available to effect such repair.

22.5 Termination of Lease Following Major Damage. If Center Art elects not to repair Major Damage, and, instead, elects to terminate this Lease, unless the parties otherwise agree, such termination of this Lease shall take effect ninety (90) days following Center Art's notice to City of its election to terminate the Lease. To the extent of any insurance proceeds available therefor, Center Art shall restore all areas of the Exhibit and Garden Area to a clean, neat and safe condition as reasonably required by the Director including removal of remaining capital improvements as described in Section 18.

22.6 Effect of Leasehold Mortgagee's Application of Insurance Proceeds. If the terms of any Leasehold Mortgage described in Section 26 below require the application of any material portion of insurance proceeds to be applied to reduce obligations secured by such Leasehold Mortgage and Center Art elects to repair or reconstruct the Project improvements, then Center Art shall have a reasonable period of time to obtain financing reasonable required to finance the repair or reconstruction of the Project improvements in accordance with this Section 22.

23. Public Benefits.

Center Art hereby commits to provide the City and its residents with the public benefits and amenities described below ("Public Benefits") throughout the Lease Term. Center Art shall annually report on the Public Benefits as required under Subsection 10.1.

23.1 Artists at Play. Center Art will provide funding for an imaginative and engaging playground with play structures designed by local artists and designers, as conceptually envisioned in Addendum 3 of the Center Arts' response to the City's Request for Proposals, which addendum is attached as Exhibit 6. Specifically, Center Art shall make an initial funding of one million dollars ($1,000,000), payable to the Seattle Center Foundation, for the purpose of funding the Artists at Play playground at the site of the Fun Forest North location on the Seattle Center campus ("Artists at Play"). Center Art and the Seattle Center shall establish an advisory group ("Artists at Play Advisory Group") to develop guidelines for the artist/designer selection process and recommended use of the initial funding (the "Artists at Play Guidelines") as envisioned in Exhibit 6 and following the best practices in the public art field as outlined in Seattle Center's "Century 21 Public Art Plan and Guidelines" adopted by the City Council as part of the Century 21 Master Plan Design Guidelines (adopted May 10, 2010 by Resolution No. 31209). The Artists at Play Advisory group shall consist of Center Art appointees and Seattle Center appointees with Center Art having approval over the final recommended use of the initial funding.

Center Art shall make the initial funding available to the Seattle Center Foundation as follows: (a) ten percent (10%) of the initial funding shall be made available to the Seattle Center Foundation at the commencement of the Artists at Play Advisory Group work on the Artists at Play Guidelines; and (b) the balance of the initial funding shall be made available to the Seattle Center Foundation upon completion of all site clearing and grading work at the Fun Forest North site necessary in order for the Artists at Play construction to commence; provided, however, in any event the initial funding shall be paid at expiration of the Initial Term if Center Art elects to terminate this Lease at the end of the Initial Term. Center Art and City agree that while a reasonable amount of funding is necessary in

connection with the work of the Artists at Play Advisory Group and development of the Selection Guidelines, the substantial majority of the initial funding shall be used for actual "in the ground" improvements.

Thereafter, upon the opening of the Artists at Play area to the public, and thereafter on or before January 1 of each remaining year during the Term, Center Art will pay $50,000 to the Seattle Center Foundation for the purpose of an annual maintenance fund. The term for the annual maintenance fund will be concurrent with the Lease Term. The site of the Artists at Play Playground on the Seattle Center campus is shown on Exhibit 7. The Artists at Play Playground shall be open to the general public. No direct profit will inure to Center Art as a result of its funding of the Artists at Play Playground. Center

23.2 Sustainable Design. Center Art will use all commercially reasonable efforts to design and construct the Project according to LEED Silver standards and will submit the Project for LEED Silver Standard Certification. Key sustainable design features may include to the extent feasible: (a) natural ventilation and day lighting, (b) passive solar and radiant heating, (c) green roof and green wall systems, (d) extensive rain gardens and new landscaping to replace existing asphalt, and (e) adaptive transformation of an existing building reducing the carbon footprint.

23.3 Enhanced Pedestrian Access. Center Art and the City have agreed that the campus entries at the south and north edges of the Premises, in addition to a significantly broadened pedestrian promenade at the eastern edge of the Premises, shall be landscaped with improved pedestrian circulation into the Seattle Center campus in substantial conformance with Exhibit 4 attached hereto. Center Art will be responsible for designing and funding certain visual enhancements and landscaping within the Project Improvement Area in order to give a sense of transparency into the Art Garden and visually engage visitors to the campus as they walk outside the south, east and north sides of the Premises. These improvements are intended to knit this portion of the campus together with adjacent amenities such as the Mural Amphitheatre, Peace Garden, Space Needle, Broad Street Green and Center House.

23.4 Thomas Street. The café will be located on the north side of the Existing Building, with glazing along its northern wall to allow the public to see into the building, enhancing visual connections along the vacated Thomas Street, and opening up the perceived constriction point with Center House as conceptually depicted in Exhibit 4.

23.5 Center Nights Free Admission. Center Art will work cooperatively with Seattle Center to create a regular free admission program in conjunction with other Seattle Center resident organizations under a branded "Center Nights" or similar framework, pursuant to which Center Art shall make a minimum of 10,000 free tickets available annually. The goal of this program is to provide free access opportunities for low-income Seattle residents who might otherwise not be able to afford admission to the Project and other events by Seattle Center resident organizations.

24. Community Partners. As long–time proud and supporting members of the diverse Seattle community, the members of Center Art L.L.C. and Chihuly are committed to furthering arts education and arts engagement for youth and adults. During the Initial Term, Center Art will partner with at least four community groups to provide arts education and activities for youth and adults. The initial community partners are Seattle Public Schools, Pilchuck Glass School, Pratt Fine Arts Center and ArtsFund. After the initial agreements with the four identified community partners expire (which shall not be sooner than the expiration of the Initial Term), Center Art agrees to continue to work with a minimum of two (2) community partners during any Extended Term in order to provide a consistent level of arts education and community activities throughout such Extended Term(s). Prior to finalizing any agreement with a community partner for any Extended Term, Center Art agrees to provide written notification to City Council and the Director, and further agrees to partner with a minimum of one arts-oriented and one education-oriented partner. A brief summary of the initial community partner plans is as follows:

24.1 Seattle Public Schools. To enhance access to arts education, Center Art will consult with the Seattle Public Schools to develop a student curriculum program for Seattle Public Schools focused on the 8th grade level that spans visual arts and science and supports graduation and testing requirements. Students will have guided and self-guided thematic experiences at the Project, coupled with hands-on projects and related classroom activities. This program, which also includes funding for roundtrip transportation from each participating school to the venue, is to be funded by Center Art pursuant to a budget agreed upon between Center Art and the Director with the expectation to directly benefit approximately 4,000 Seattle students annually.

24.2 Pratt Fine Arts Center. Center Art will implement a program that supports Pratt artists throughout the year and culminates in a week long artist lecture series on the Premises open to Pratt students at no admission charge. Additionally, to help make the educational offerings at Pratt more accessible to all regardless of economic circumstances, Center Art will annually host (at its own expense) an event to specifically fund the Pratt scholarship and tuition assistance program.

24.3 Pilchuck Glass School. Center Art will sponsor a new, week-long artist lecture series with Pilchuck that culminates in a celebration of the work of Pilchuck at the Premises and honors the Pacific NW Studio Glass Movement and all glass artists inspired by this tradition.

24.4 ArtsFund. In support of ArtsFund's mission to promote artistic and organizational excellence and advocacy for the arts, Center Art will annually host an event to encourage and support giving to the arts through ArtsFund.

25. Assignment and Sublease.

25.1 Generally. Except as provided in this Section 25 or in Section 26 of this Lease, Center Art shall not voluntarily, involuntarily or by operation of law, assign, license, mortgage, hypothecate, sublet or in any manner transfer this Lease or any interest herein, nor shall Center Art authorize, allow or permit any person (the employees of Center Art excepted), to occupy or use the Premises or any portion thereof, without first obtaining the written consent and approval of the Director. The Director shall not unreasonably withhold, delay or condition said consent and approval. Any assignment, license, mortgage, sublease, hypothecation, transfer, occupancy or use of the Premises in violation of this paragraph shall be null and void and of no force and effect and shall further constitute a breach of this Lease by Center Art. The giving by the Director of such consent and approval shall not be deemed to be a consent or approval to any subsequent assignment, license, mortgage, sublease, hypothecation, transfer, occupancy or use by any other person nor shall it release Center Art or any of Center Art's obligations to pay Rent and perform all other continuing obligations to be performed by Center Art hereunder.

25.2 Subletting, Renting and Licensing. As long as Center Art is not in default under any of the terms of this Lease, it is agreed that, subject only to this Section 25.2, Center Art shall have the unrestricted right to sublease, sublet, rent or license a portion of the Premises for any time or times during the Lease Term not to exceed the Initial Term of this Lease and the Extended Terms, if exercised, provided that the terms and conditions of any such sublease, rental agreement or license agreement do not violate the terms and conditions of this Lease and do not relieve Center Art of its obligations under this Lease. Notwithstanding the foregoing, the subletting of all or substantially all of the Premises shall be considered an assignment of this Lease, subject to the City's consent as provided in Section 25.1 above. Center Art may not sublet any portion of the Premises in which the City has reserved rights pursuant to Section 2.7 without the prior written approval of the Director. The Director agrees not to unreasonably withhold, delay or condition said approval.

25.3 Rights of Leasehold Mortgagee. Notwithstanding the foregoing provisions of this Section 25, Center Art shall have the right to grant or deliver a leasehold mortgage to a Leasehold Mortgagee, all subject to and as provided in Section 26 of this Lease.

Center Art shall pay all legal fees and other costs incurred by the City in connection with consideration of Center Art's request for approval of assignments or subleases.

26. Encumbrance of Leasehold Estate

26.1 Permitted Encumbrance. Notwithstanding Section 25, Center Art may, on one or more occasions and at any time during the Initial Term or any Extended Term, encumber to any person or entity, hereinafter called "Leasehold Mortgagee," by deed of trust or mortgage or other security instrument ("Leasehold Mortgage") any or all of Center Art's interest under this Lease and Center Art's leasehold estate for the purpose of financing construction of the Initial Improvements or any improvements, additions or modifications to the Premises or Project or any advances related thereto or otherwise for the purpose of protecting Leasehold

Mortgagee's security in the Project or Premises. A Leasehold Mortgage in compliance with this Section 26 shall not require the City's prior consent; provided, however, in no circumstance shall any encumbrance incurred by Center Art constitute in any manner a lien or encumbrance on the fee or any other interest of City in the Premises. In the event Center Art incurs any encumbrance under this Section 26, the Leasehold Mortgagee having a valid encumbrance shall have the right during the existence of the encumbrance and at any time during the Term of the Lease to do any act or thing required of Center Art under this Lease, and any such act or thing done and performed by Leasehold Mortgagee shall be as effective to prevent a forfeiture of Center Art's rights under this Lease as if done by Center Art itself. The term "foreclosure" as used in this Lease with respect to a Leasehold Mortgage shall include a judicial sale, nonjudicial sale, trustee's sale or other similar realization proceeding.

26.2 Required Notice. Each time Center Art shall mortgage its interest in this Lease the holder of such Leasehold Mortgage shall provide the Director with notice of such Leasehold Mortgage together with a true copy of such Leasehold Mortgage and the name and address of the Leasehold Mortgagee. Following receipt of such notice by Director, the provisions of this Section 26 shall apply in respect to such Leasehold Mortgage. In the event of any assignment of a Leasehold Mortgage or in the event of a change of address of a Leasehold Mortgagee or of an assignee of such Leasehold Mortgagee, notice of the new name and address shall be provided to City as provided in Sections 1.12 and 35. City shall have no liability for actions taken with respect to this Lease that may impair the rights of any Leasehold Mortgagee that has failed to provide City with the notice required under this Section 26.2.

26.3 Protection of Leasehold Mortgagees. If Center Art, or Center Art's successors or assigns, shall mortgage this Lease in compliance with the provisions of this Section 26, then so long as any such Leasehold Mortgage shall remain unsatisfied of record, the following provisions shall apply:

26.3.1 Consent. No cancellation, surrender or modification of this Lease shall be effective as to any Leasehold Mortgagee unless consented to in writing by such Leasehold Mortgagee, except that such consent shall not be required with respect to a termination, cancellation or surrender in accordance with this Section 26 or Section 21 upon condemnation or a Default that Leasehold Mortgagee has notice of and does not cure or commence to cure as and when required under the terms of this Lease.

26.3.2 Notice of Default. City, upon providing Center Art any notice of (a) any Default under this Lease, (b) a termination of this Lease, or (c) a matter on which City may predicate or claim a Default, shall at the same time provide a copy of such notice to every Leasehold Mortgagee of which City has been provided notice in accordance with Section 26.2 hereof. City shall have no liability for the failure to give any such notice, except that no such notice by City to Center Art shall be deemed effective as to any Leasehold Mortgagee that shall not have been duly given a copy of such notice (unless and until a copy thereof has been so provided to such Leasehold Mortgagee of which City has been provided notice in accordance with Section 26.2 hereof). From and after such notice has been given to a Leasehold Mortgagee, such Leasehold Mortgagee shall have

the same period, after the giving of such notice upon it, for remedying any Default or acts or omissions which are the subject matter of such notice, or causing the same to be remedied, as is given Center Art after the giving of such notice to Center Art, plus in each instance, the additional periods of time specified in Sections 26.3.3 and Section 26.3.4 hereof to remedy, commence remedying, or cause to be remedied the Defaults or acts or omissions which are specified in such notice. City shall accept such performance by or at the instigation of such Leasehold Mortgagee as if the same had been done by Center Art. Center Art authorizes each Leasehold Mortgagee to take any such action at such Leasehold Mortgagee's option and does hereby authorize entry upon the Premises by the Leasehold Mortgagee for such purpose.

26.3.3 Notice to Leasehold Mortgagee. Anything contained in this Lease to the contrary notwithstanding, if any Default shall occur which entitles City to terminate this Lease, City shall have no right to terminate this Lease unless, following the expiration of the period of time given Center Art to cure such Default or the act or omission which gave rise to such Default, City shall notify every Leasehold Mortgagee (of which City shall have been provided notice of pursuant to Section 26.2 hereof) of City's intent to so terminate at least one hundred eighty (180) days in advance of the proposed effective date of such termination in the event of such Default. The provisions of Section 26.3.4 shall apply only if during the one hundred eighty (180) day termination notice period, any Leasehold Mortgagee shall:

(a) Notify City of such Leasehold Mortgagee's desire to nullify such notice; and

(b) Pay or cause to be paid in full all Rent and other payments (i) then due and in arrears as specified in the termination notice to such Leasehold Mortgagee and (ii) any of the same which become due during such 180- day period as and when they become due; and

(c) Comply or in good faith, with reasonable diligence and continuity, commence to comply with all non-monetary requirements of this Lease then in default and reasonably susceptible of being complied with by such Leasehold Mortgagee; provided, however, that such Leasehold Mortgagee shall not be required during such 180-day period to cure or commence to cure any Default consisting of (i) Center Art's failure to satisfy and discharge any lien, charge or encumbrance against Center Art's interest in this Lease or the Premises junior in priority to the lien of the mortgage held by such Leasehold Mortgagee, or (ii) past non-monetary obligations then in default and not reasonably susceptible of being cured by such Leasehold Mortgagee, such as, by way of example only, the bankruptcy of Center Art.

26.3.4 Procedure on Default.

(a) If City shall elect to terminate this Lease by reason of any Default, and a Leasehold Mortgagee shall have provided notice under Section 26.2 and proceeded in the manner provided for by Section 26.3.3, this Lease shall not be deemed terminated so long as such Leasehold Mortgagee shall:

(i) Pay or cause to be paid in full the Rent and other monetary obligations of Center Art under this Lease as the same become due, and perform all of Center Art's other obligations under this Lease excepting (a) obligations of Center Art to satisfy or otherwise discharge any lien, charge or encumbrance against Center Art's interest in this Lease which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee, and (b) past non-monetary obligations then in default and not reasonably susceptible of being cured by such Leasehold Mortgagee, such as, by way of example only, the bankruptcy of Center Art; and

(ii) If not enjoined or stayed, take steps to acquire or sell Center Art's interest in this Lease by foreclosure of the Leasehold Mortgage or other appropriate means and prosecute the same with due diligence.

Nothing in this Section 26.3.4(a), however, shall be construed to extend this Lease beyond the Initial Term hereof, nor to require a Leasehold Mortgagee to continue such foreclosure proceedings after the Default has been cured. If the Default shall be cured and the Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Center Art had not defaulted under this Lease.

(b) If a Leasehold Mortgagee is complying with Section 26.3.4(a), upon the acquisition of the leasehold estate herein by such Leasehold Mortgagee or its designee or any other purchaser at a foreclosure sale or otherwise and the discharge of any lien, charge or encumbrance against Center Art's interest in this Lease or in the Premises which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee and which Center Art is obligated to satisfy and discharge by reason of the terms of this Lease, this Lease shall continue in full force and effect as if Center Art had not defaulted under this Lease.

(c) The making of a Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of this Lease or the leasehold estate hereby created, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of Center Art to be performed hereunder. Notwithstanding the foregoing, the purchaser at any sale of this Lease and of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignee or transferee of this Lease and of the leasehold estate hereby created under any instrument of assignment or transfer in lieu of the foreclosure of any Leasehold Mortgage, including, without limitation, a Leasehold Mortgagee, shall be deemed to be an assignee or transferee within the meaning of this Section 26.3.4 and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of Center Art to be performed hereunder from and after the date of such purchase and assignment only for as long as such purchaser or assignee is the holder of this leasehold estate. If the Leasehold Mortgagee or its designee shall become holder of the leasehold estate and if the Premises shall have been or become materially damaged on, before or after the date of such purchase and assignment, the Leasehold Mortgagee or such designee shall be obligated to repair, replace or reconstruct the Premises only to the extent Center Art is

required to do so by the terms of this Lease and then only to the extent of the insurance proceeds received by the Leasehold Mortgagee or such designee by reason of such damage. Should such net insurance proceeds be insufficient to repair, replace or reconstruct the Premises as required and should the Leasehold Mortgagee or such designee choose not to fully reconstruct the Premises, such failure shall entitle City to terminate this Lease and the net insurance proceeds shall be applied as provided in Section 20.3 hereof; provided, however, that the Leasehold Mortgagee shall not be entitled to receive insurance proceeds in excess of the then outstanding balance of the debt secured by the Leasehold Mortgage.

(d) Notwithstanding any other provision of this Lease, any sale of this Lease and of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignment or transfer of this Lease and of the leasehold estate hereby created in lieu of the foreclosure of any Leasehold Mortgage, shall be deemed to be a permitted sale, transfer or assignment of this Lease and of the leasehold estate hereby created.

(e) Any Leasehold Mortgagee or other acquirer of the leasehold estate pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings, and any tenant under a New Lease, may, upon acquiring the leasehold estate, without further consent of City, sell and assign the leasehold estate on such terms and to such persons and organizations (each, a "Subsequent Assignee") as comply with the terms of this Lease including but not limited to those set forth in Section 24, it being agreed that the Leasehold Mortgagee's right to assign, sell or sublet the Premises shall be limited to the same extent as the Center Art's rights set forth in this Lease.

26.4 New Lease. In the event of the termination of this Lease as a result of a Default, City shall promptly, within a reasonable time, provide each Leasehold Mortgagee of which City has received notice of, with written notice that the Lease has been terminated (the "New Lease Notice"), together with a statement of all sums which would at that time be due under this Lease but for such termination and of all other defaults, if any, then known to City. City agrees to enter into a new lease (the "New Lease") of the Premises with such Leasehold Mortgagee or its designee for the remainder of the Term of this Lease, effective as of the date of termination, at the same Rent and upon the terms, covenants and conditions of this Lease; provided:

26.4.1 Request. Such Leasehold Mortgagee shall make written request upon City for such New Lease within sixty (60) days after the date such Leasehold Mortgagee receives City's New Lease Notice given pursuant to this Section 26.4.

26.4.2 Procedure. Such Leasehold Mortgagee or its designee shall pay or cause to be paid to City at the time of the execution and delivery of such New Lease, any and all sums which would at the time of execution and delivery thereof be due pursuant to this Lease but for such termination, and, in addition thereto, all reasonable expenses, including reasonable attorneys' fees, which City shall have incurred by reason of such termination and the execution and delivery of the New Lease and which have not otherwise been received by City from Center Art or any other party in interest under

Center Art. Upon the execution of such New Lease, City shall allow to tenant named therein, as an offset against the sums otherwise due under this Section 26.4.2 or under the New Lease, an amount equal to the net income received by City, if any, from the Premises during the period from the date of termination of this Lease to the date of the beginning of the term of such New Lease. In the event of a controversy as to the amount to be paid to City pursuant to this Section 26.4.2, the payment obligation shall be satisfied if City shall be paid the amount not in controversy upon execution of the New Lease, the Leasehold Mortgagee or such designee shall agree to pay any additional sum ultimately determined to be due, and such obligation shall be adequately secured. The parties shall cooperate promptly to determine any disputed amount. If the parties cannot determine such amount through negotiation, such dispute shall be resolved pursuant to Section 35 of this Lease.

26.4.3 Cure. Such Leasehold Mortgagee or such designee shall agree to remedy any of Center Art's defaults of which such Leasehold Mortgagee was notified by City's New Lease Notice and which are reasonably capable of being so cured by Leasehold Mortgagee or such designee.

26.4.4 Priority. Any New Lease made pursuant to this Section 26.4 shall have the same priority with respect to any mortgage or other lien, charge or encumbrance on the Premises as this Lease, and tenant under such New Lease shall have the same right, title and interest in and to the Premises as Center Art had under this Lease as of the date of the New Lease.

26.5 New Lease Priorities. If more than one Leasehold Mortgagee shall request a New Lease pursuant to Section 26.4, City shall enter into such New Lease with the Leasehold Mortgagee whose Leasehold Mortgage is prior in lien, or with the designee of such Leasehold Mortgagee; provided, however, that City is not obligated to determine whether any junior lien holders exist and shall have no responsibility to enter into a New Lease with a Leasehold Mortgagee who has not provided City with notice under Section 26.2. City, without liability to Center Art or any Leasehold Mortgagee with an adverse claim, may rely upon a mortgagee title insurance policy issued by a responsible title insurance company doing business in the State of Washington as the basis for determining the appropriate Leasehold Mortgagee who is entitled to such New Lease.

26.6 Certain Defaults. Nothing herein contained shall require any Leasehold Mortgagee or its designee as a condition to its exercise of rights hereunder to cure any Default which by its terms is not reasonably susceptible of being cured by such Leasehold Mortgagee or such designee in order to comply with the provisions of Sections 26.3.3 or Section 26.3.4 as a condition of entering into the New Lease provided for in Section 26.4. No Default, the cure of which, and no obligation of Center Art, the performance of which, requires possession of the Premises shall be deemed reasonably susceptible of cure or performance by any Leasehold Mortgagee or successor to Center Art's interest under this Lease or a New Lease not in possession of the Premises, provided such holder is complying with the requirements described in Section 26.3.4(a)(ii) hereof and, upon obtaining possession, promptly proceeds to cure any such Default then reasonably susceptible of cure by such Leasehold Mortgagee or

successor. No Leasehold Mortgagee shall be required to cure the bankruptcy, insolvency or any related or similar condition of Center Art.

26.7 Eminent Domain. Center Art's share, as provided in Section 21 of this Lease, of the proceeds arising from an exercise of the power of eminent domain shall, subject to the provisions of Section 21, be disposed of as provided for by any Leasehold Mortgage.

26.8 Insurance. A standard mortgagee clause naming each Leasehold Mortgagee may be added to any and all insurance policies required to be carried by Center Art hereunder. The Leasehold Mortgage may provide a manner for the disposition of such proceeds, if any, and in such event the Leasehold Mortgage shall control but only as to disposition of any insurance proceeds Center Art or Leasehold Mortgagee is entitled to under this Lease.

26.9 Dispute Resolution. City shall give each Leasehold Mortgagee of which City has notice prompt Notice of any dispute resolution proceedings between City and Center Art involving obligations under this Lease. Each such Leasehold Mortgagee shall have the right to intervene after receipt of notice of such proceedings, in any such proceedings and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention. Any intervening Leasehold Mortgagee shall be bound by the outcome of such proceedings. In the event that any Leasehold Mortgagee shall not elect to intervene or become a party to any such proceedings, City shall give the Leasehold Mortgagee notice of, and a copy of any award or decision made in any such proceedings, which shall be binding on all Leasehold Mortgagees not intervening after receipt of notice of such proceedings.

26.10 Notices. Notices from City to the Leasehold Mortgagee shall be mailed to the address furnished City pursuant to Section 26.2 and those from the Leasehold Mortgagee to City shall be mailed to the address designated pursuant to the provisions of Section 1.12 hereof. All Notices from any Leasehold Mortgagee or City shall be given in the manner described in Section 35 and shall in all respects be governed by the provisions of that section.

26.11 Erroneous Payments. No payment made to City by a Leasehold Mortgagee shall constitute agreement that such payment was, in fact, due under the terms of this Lease; and any Leasehold Mortgagee having made any payment to City pursuant to City's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof provided the Leasehold Mortgagee shall have made demand therefor not later than twelve (12) months after the date of its payment.

26.12 Bankruptcy. In the event of any proceeding by Center Art under the United States Bankruptcy Code (Title 11 U.S.C.) as now or hereafter in effect:

26.12.1 Rejection of Lease by Center Art. If this Lease is rejected in connection with a bankruptcy proceeding by Center Art or a trustee in bankruptcy for Center Art, such rejection shall be deemed an assignment by Center Art to the Leasehold Mortgagee (or if there is more than one Leasehold Mortgagee, as determined by a court of competent jurisdiction) of the leasehold estate and all of Center Art's interest under this Lease, in the nature of an assignment in lieu of foreclosure, and this Lease shall not

terminate and the Leasehold Mortgagee shall have all the rights of the Leasehold Mortgagee under this Section 26 as if such bankruptcy proceeding had not occurred, unless such Leasehold Mortgagee shall reject such deemed assignment by notice in writing to City within thirty (30) days following the later of (a) rejection of the Lease by Center Art or Center Art's trustee in bankruptcy or (b) approval of such rejection by the bankruptcy court. If any court of competent jurisdiction shall determine that this Lease shall have been terminated notwithstanding the terms of the preceding sentence as a result of rejection by Center Art or the trustee in connection with any such proceeding, the rights of any Leasehold Mortgagee to a New Lease from City pursuant to Section 26.4 hereof shall not be affected thereby.

26.13 Leasehold Mortgagee as Trustee. A Leasehold Mortgagee may hold and disburse any funds received as the proceeds of hazard insurance or condemnation.

26.14 Rights Against Center Art. The rights of a Leasehold Mortgagee hereunder shall not diminish any right or claim of City against Center Art for damages or other monetary relief under this Lease.

26.15 Lease Amendments Requested by Leasehold Mortgagee. In the event Center Art seeks to obtain or modify a Leasehold Mortgage, and the applicable Leasehold Mortgagee requires amendments to this Section 26, then City agrees to amend this Lease from time to time to the extent reasonably requested by the Leasehold Mortgagee, provided that the form and content of such amendments are acceptable to the Director in the Director's reasonable discretion and provided that if any such proposed amendment reduces the Rent hereunder or similarly materially and adversely affects the rights of City hereunder or its interest in the Premises or the obligations of the Center Art under this Lease, then the Director may withhold its consent in the Director's sole and absolute discretion. All reasonable expenses incurred by City in connection with any such amendment shall be paid by Center Art upon submission of a bill for the same from City and as a condition for City entering into any such amendment(s).

27. Assignment by City.

If City sells or otherwise transfers the Premises, or if City assigns its interest in this Lease, such purchaser, transferee, or assignee thereof shall be deemed to have assumed City's obligations under this Lease arising after the date of such transfer, and City shall thereupon be relieved of all liabilities under this Lease arising thereafter, but this Lease shall otherwise remain in full force and effect. Center Art shall attorn to any City successor which assumes and agrees to perform all of City's obligations under this Lease.

28. Default by Center Art.

28.1 Definition. The following shall constitute a default ("Default") by Center Art under this Lease:

(a) Subject to Events of Force Majeure, if Center Art violates, breaches, or fails to keep or perform any term, provision, covenant, or any obligation of

this Lease and following written notice from City to all parties entitled to notice of a Default hereunder specifically identifying the nature of the violation, breach or failure, such violation, breach or failure shall continue for a period of thirty (30) days, or such longer period as is specified by another Section of this Lease or as may be reasonably required in order to cure the violation, breach or failure, provided that Center Art commences the cure within said thirty (30) days following City's written notice and thereafter diligently pursues the cure to completion;

(b) if Center Art files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Center Art's assets or if Center Art makes an assignment for the benefit of creditors;

(c) if Center Art is adjudicated insolvent, or becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or liquidated, voluntarily or otherwise; or

(d) if Center Art's use of the Premises constitutes a material violation of the Permitted Uses or any law, ordinance or regulation pertaining thereto and such Default is not cured pursuant to Section 28.1(a) above.

28.2 City Remedies. Upon the occurrence of a Default, City shall have the following nonexclusive rights and remedies at its option: (a) to cure such default on Center Art's behalf and at Center Art's sole expense and to charge Center Art for all actual and reasonable costs and expenses incurred by City in effecting such cure as an Additional Charge; (b) without declaring this Lease terminated, to reenter the Premises and to occupy the whole or any part thereof for and on account of Center Art and to collect any unpaid Base Rent, Additional Rent and Additional Charges that have become payable or that may thereafter become payable, subject at all times to Center Art's, Chihuly's or any other artist's right to remove Artworks and Inventory or any other personal property of Center Art on the Premises or Public Use Area; or (c) to terminate this Lease upon at least ninety (90) days prior written notice and otherwise in accordance with Section 28.3

Notwithstanding anything to the contrary contained herein, if the nature of Center Art's obligation (other than monetary obligations and other than vacation or abandonment of the Premises) is such that more than thirty (30) days is required for performance, then Center Art shall not be in default if it commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

28.3 Termination of Lease. The parties recognize and agree that termination of the Lease is a drastic and severe remedy. Accordingly, City shall have the right to exercise its right to terminate the Lease in the event of a Center Art Default only if:

(a) The Default is of the nature described in Section 28.1(b), (c) or (d) above;

(b) In the case of a monetary default where Center Art does not have the immediate funds available to cure the monetary default, City, without limiting

its right to pursue other remedies hereunder for a Default has allowed Center Art at least three (3) months from the date of City's notice of such monetary default to cure same; or

(c) Center Art has vacated or abandoned the Premises in violation of Section 28.5.

28.4 Reentry by City upon Termination. Upon the termination of this Lease as the result of a Default, City may reenter the Premises, take possession thereof, and remove all persons therefrom, for which actions Center Art shall have no claim thereon or hereunder. Center Art shall be liable and shall reimburse City upon demand for all actual and reasonable costs and expenses of every kind and nature incurred in retaking possession of the Premises. If City retakes the Premises, City shall have the right, but not the obligation, to remove therefrom all or any part of the personal property located therein and may place the same in storage at any place selected by City, including a public warehouse, at the expense and risk of Center Art. City shall have the right to sell such stored property, after reasonable prior notice to Center Art or such owner(s), after it has been stored for a period of thirty (30) days or more. The proceeds of such sale shall be applied first, to the cost of such sale; second, to the payment of the charges for storage, if any; and third, to the payment of any other sums of money that may be due from Center Art to City; and the balance, if any, shall be paid to Center Art.

28.5 Vacation or Abandonment. Unless due to damage or destruction governed by Section 22 or due to an Event of Force Majeure, if Center Art vacates or abandons the Premises in their entirety and fails to reoccupy them within thirty (30) days after City (1) delivers a notice to Center Art's notice address set forth in Section 1.12 above demanding such re-occupancy and (2) mails by certified or registered mail a copy of the notice to any forwarding address given by Center Art to City in writing, Center Art shall be in default under this Lease.

28.6 City's Non-exclusive Remedies upon Termination due to Default of Center Art. Notwithstanding any reentry by City and anything to the contrary in this Lease, in the event of the termination of this Lease due to the Default of Center Art, the liability of Center Art for all sums due under this Lease provided herein shall not be extinguished for the balance of the then-existing Term of this Lease. Center Art shall also be liable to City for any other amount (excluding consequential damages or specific performance) necessary to compensate City for all the detriment proximately caused by Center Art'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 in maintaining or preserving the Premises after such Default, and any costs incurred in authorizing others the use and occupancy of the Premises and in preparing the Premises for such use and occupancy, and such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of Washington. The provisions of this Section 28.6 shall survive the expiration or earlier termination of this Lease.

28.7 City's Remedies Cumulative; Waiver. City's rights and remedies hereunder are not exclusive, but cumulative, and City's exercise of any right or remedy due to a default or breach by Center Art shall not be deemed a waiver of, or alter, affect or prejudice any other

right or remedy that City may have under this Lease or by law or in equity. Neither the acceptance of rent nor any other act or omission of City 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 City 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 City 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.

28.8 Commencement of Cure Period. Notwithstanding the foregoing provisions of this Section 28, if the existence of a default is being contested by Center Art pursuant to dispute resolution or other legal proceedings, if and so long as Center Art is acting in good faith to complete the dispute resolution or other legal proceedings with respect thereto, the time for curing any alleged default shall commence upon the rendering of a final and non-appealable decision with respect thereto, or other resolution thereof, whichever occurs first; provided, however, that if the matter being contested is capable of performance to the extent not in dispute (e.g., the undisputed portion of monies owing), performance to the extent not in dispute shall be a condition precedent to the effectiveness of this Section.

28.9 Notice of Default to Chihuly. City, upon providing Center Art any notice of (a) any Default under this Lease, (b) a termination of this Lease, or (c) a matter on which City may predicate or claim a Default, shall at the same time provide a copy of such notice to Chihuly Inc. at 1111 NW 50th Street, Seattle, WA, 98109-5120.

29. Default by City.

City shall be in default if City fails to perform its obligations under this Lease within thirty (30) days after its receipt of notice of nonperformance from Center Art; provided, that if the default cannot reasonably be cured within the thirty (30) day period, City shall not be in default if City commences the cure within the thirty (30) day period and thereafter diligently pursues such cure to completion. Upon City's default, Center Art may pursue any remedies at law or in equity that may be permitted from time to time by the laws of the State of Washington. Notwithstanding the foregoing provisions of Section 29, if the existence of a default is being contested by City pursuant to dispute resolution or other legal proceedings, if and so long as City is acting in good faith to complete the dispute resolution or other legal proceedings with respect thereto, the time for curing any alleged default shall commence upon the rendering of a final and non-appealable decision with respect thereto, or other resolution thereof, whichever occurs first; provided, however, that if the matter being contested is capable of performance to the extent not in dispute (e.g., the undisputed portion of monies owing), performance to the extent not in dispute shall be a condition precedent to the effectiveness of this Section.

30. City and Center Art To Furnish Statement.

30.1 City's Statement. City, within ten (10) business days after written request to City from Center Art or any Leasehold Mortgagee or prospective Leasehold Mortgagee, will furnish a written statement, duly acknowledged, addressed to Center Art and such other persons or entity(ies) as Center Art may reasonably request, as to the following items:

(a) The amount of Rent due, if any;

(b) Whether or not the Lease is unmodified and in full force and effect (or, if there have been modifications, whether or not the Lease is in full force and effect as modified and identifying the modifications);

(c) Whether or not, to City's actual knowledge, a Default has occurred and specifying the nature of such Default, if any;

(c) Whether or not, to City's actual knowledge, any circumstances or events exist which, with the passage of time or giving of notice or both, may constitute a Default hereunder; and

(e) Such other matters as Center Art or the Leasehold Mortgagee may reasonably request and which are reasonably acceptable to City and relate to the actual knowledge of City.

30.2 Center Art's Statement. Center Art, within ten (10) business days after written request from City, will furnish a written statement, duly acknowledged, addressed to City and such other persons or entity(ies) as City may reasonably request, as to:

(a) Whether or not the Lease is unmodified and in full force and effect (or, if there have been modifications, whether or not the Lease is in full force and effect as modified and identifying the modifications);

(b) Whether or not, to Center Art's actual knowledge, a City default under this Lease has occurred and specifying the nature of such City default, if any;

(c) Whether or not, to Center Art's actual knowledge, any circumstances or events exist which, with the passage of time or giving of notice or both, may constitute a City default hereunder; and

Such other matters as City may reasonably request and which are reasonably acceptable to Center Art and relate to the actual knowledge of Center Art.

31. Attorneys' Fees.

If either party retains the services of an attorney in connection with enforcing the terms of this Lease, each party agrees to bear its own attorneys' fees and costs.

32. Access to Premises by Seattle Center.

Seattle Center and its agents shall have the right to enter the Premises at any reasonable time, with at least 24 hours prior notice to Center Art, to examine the same, and to show them to prospective purchasers, lenders or tenants, and to make such repairs, alterations, improvements, additions or improvements to the Premises as the Director may deem necessary or desirable. Center Art will provide Seattle Center with a master key. If Center Art is not personally present to permit entry and an entry is necessary in an emergency, Seattle Center may enter the same by master key or may forcibly enter the same, without rendering Seattle Center liable, except in the event of Seattle Center's gross negligence or intentional misconduct. Nothing contained herein shall be construed to impose upon Seattle Center any duty of repair or other obligation not specifically stated in this Lease. If Center Art shall change the locks to the Premises, Center Art shall ensure that Seattle Center receives a master key to enable entry in case of emergency only through Seattle Center and upon paying Seattle Center for all actual and reasonable costs related thereto.

33. Holding Over.

If Center Art remains in possession of all or any part of the Premises after the expiration of the Term hereof with City's express or implied consent, such tenancy shall be from month-to-month only, and not a renewal hereof or an extension for any further term, and in such case, Center Art shall pay City rent in an amount that the parties shall negotiate; provided, however, that if the parties cannot agree on the amount of rent within 30 days from the expiration of the Term, then such holding over shall be deemed to be without City's consent. If Center Art remains in possession of all or any part of the Premises without City's consent, such tenancy shall be from month-to-month only, and not a renewal hereof or an extension for any further term, and in such case, Center Art shall pay City rent in an amount equal to One Hundred Fifty Percent (150%) of the then-current Base Rent for the entire time Center Art thus remains in possession and Center Art shall hold City harmless from all damages resulting from Center Art's failure to surrender the Premises or any portion thereof, including, without limitation, claims made by a succeeding tenant resulting from Center Art's failure to surrender the Premises or any portion thereof. All provisions of this Lease, except those pertaining to the amount of Base Rent payable and Term, shall apply to such month-to-month tenancy.

34. Notices.

Any notice, demand or request required hereunder shall be given in writing to the party's address set forth in Section 1.12 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.

35. Dispute Resolution.

The parties shall make their best efforts to resolve disputes as expeditiously as possible through negotiations at the lowest possible decision-making level, and in the event such negotiations are unsuccessful, to participate in good faith in the mediation process described herein prior to either party initiating any judicial process. If an issue cannot be resolved by negotiations between subordinate staff of Center Art and Seattle Center, the matter shall be referred to the Seattle Center Director and the Center Art President and Chief Executive Officer. If those officials are unable to resolve the dispute within a period of 15 days after the matter has been formally referred to them for resolution, they shall meet during the immediately succeeding seven (7) days to select a mediator to assist in the resolution of such dispute. If Seattle Center Director and Center Art cannot agree upon a mediator within such seven (7) day period, either party may apply to the American Arbitration Association for the appointment of a mediator according to the process that is established by such entity for such action. Center Art and Seattle Center shall share equally the cost charged for the mediation of any dispute.

36. Events of Force Majeure.

36.1 Definition of Force Majeure. Neither City nor Center Art 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 circumstance or cause beyond its reasonable control ("Force Majeure" or an "Event of Force Majeure"), including, but not limited to an act of Nature, act of civil or military authority, fire, flood, windstorm, earthquake, periods of inclement weather that unreasonably impact Project construction requirements, strike or labor disturbance, civil commotion, delay in transportation, terrorist act or war or changes in law; provided, however, that the foregoing shall not excuse Center Art from the timely payment of Rent and Additional Charges due hereunder, when due unless otherwise excused under Section 22 or elsewhere herein. Another example of an Event of Force Majeure is an administrative or judicial action or appeal filed in order to challenge the validity or conditions of one or more permits, licenses or other governmental approvals related to the Project, including without limitation issuance of an environmental determination such as a mitigated determination of non-significance, until such time as any such action or appeal is finally and ultimately resolved.

36.2 Effect of Event of Force Majeure. If either party is rendered wholly or partly unable to perform its material obligations hereunder, except as to the payment of Rent which shall be excused only as expressly provided for herein, following expiration of a three (3) year period following the first occurrence of the Event of Force Majeure, then the party whose performance is so effected may elect to terminate this Lease and such termination shall take effect ninety (90) days following notice thereof.

37. Execution by City and Center Art.

Neither City nor Center Art shall be deemed to have made an offer to the other party by furnishing the other party with a copy of this Lease with particulars inserted. No contractual or other rights shall exist or be created between City and Center Art until this Lease has been approved by appropriate legislative authority and executed by the parties hereto. The City shall not be liable to Center Art if this Lease is not authorized by a valid ordinance.

38. 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, however, 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."

39. City's Control of Premises and Vicinity.

All common and other facilities provided by City in or about the Premises, including any parking areas, are subject to City's exclusive control and management by City; provided, however, that City's control and management of the Project Improvement Area shall at all times be consistent with the terms and conditions of this Lease. Accordingly, City may do any and all of the following (among other activities in support of the Seattle Center Department or other municipal objectives), all without incurring any liability whatsoever to Center Art:

39.1 Change of Vicinity. City may increase, reduce, or change in any manner whatsoever the number, dimensions, and locations of the walks, buildings, landscaping, utility lines and poles, service areas, roads, sidewalks and parking areas in the vicinity of the Premises.

39.2 Traffic Regulation. City may reasonably regulate all traffic adjacent to the Premises, including the operation and parking of vehicles of Center Art and its invitees, employees, and patrons.

39.3 Display of Promotional Materials. City may erect, display, and remove promotional materials and permit special events on property adjacent to and nearby the Premises and within the Public Use Area.

39.4 Change of Businesses. City may determine or change the size, number, and type and identity of concessions, stores, businesses and operations being conducted or undertaken in the vicinity of the Premises and to operate and to authorize others to engage in any and all forms and locations of business activity at the Seattle Center.

39.5 Entrance Charges. City may impose a reasonable charge for admission to the Seattle Center and the facilities thereon, including during the Bumbershoot Festival; provided, however, that no such general admission charge shall be charged or required by City in connection with access to the Project, it being the intent of the parties that even during such times when a general admission charge for access to the Seattle Center grounds is charged, such general admission charge shall not apply to patrons of the Project whose sole purpose is access to the Premises.

39.6 Rules and Regulations. City may promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of all areas of the Seattle Center other than the Premises.

39.7 Hours of Operation. City may determine the days and hours the Seattle Center and various business operations other than the Premises will be open to the general public.

40. Signs and Advertising.

Center Art will not display, post or distribute any material (including posters) on any part of the Seattle Center or areas of the Premises that are visible to the general public without the City's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. Except for those portions of the Premises reserved to the City pursuant to Section 2.7, Center Art may display and post material and signage on the interior of the Premises without the City's approval as long as the materials are not visible from the exterior.

Seattle Center has an aggressive business strategy to secure corporate sponsors. In some cases, City may grant a corporate sponsor exclusive product sales or marketing opportunities at Seattle Center. Currently exclusive sponsors may occur in the following categories: coffee, financial services, carbonated beverages, water, energy drink, automotive, insurance, and technology. The Parties agree and acknowledge that Center Art is free to pursue its own sponsors in connection with operations, programming, products and marketing of the Premises notwithstanding any such existing or future Seattle Center corporate sponsorships; provided, however, that with respect to any Project product sales or sponsorships that involve signage, posters or other advertising within the Exhibit and Garden Area or the Retail Space that is clearly visible from the Public Use Area or Common Areas, Center Art shall obtain the prior approval of the Director, which approval shall not be unreasonably withheld, conditioned or delayed.

41. Entire Lease; Amendments; Applicable Law.

This Lease and the Exhibits attached hereto, and by this reference incorporated herein, together with the construction agreement, if and when executed, set forth the entire agreement of City and Center Art concerning the Project and the Premises, and there are no other agreements or understanding, oral or written, between City and Center Art concerning the Premises except for the separate construction agreement referenced in Section 14.1. Any subsequent modification or amendment of this Lease shall be binding upon City and Center Art only if reduced to writing and signed by the City and an authorized officer of Center Art.

This Lease shall be governed by, and construed in accordance with the laws of the State of Washington.

42. 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.

43. Counterparts.

This Lease may be executed by the parties in counterparts, each of which shall be deemed an original and which, taken together, constitute the entire Lease.

44. Section 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.

45. 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. Words such as "herein," "hereunder" and the like refer to this Lease in its entirety and not to a particular section or subsection hereof.

46. Negotiated Lease.

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

47. Obligation of Center Art

Except to the extent assumed by a Leasehold Mortgagee or other acquirer of the leasehold estate pursuant to Section 26, any and all obligations of Center Art under this Lease are enforceable only against Center Art LLC, a Washington limited liability company, and are not enforceable against nor do they impose any liability upon Center Art's officers, directors, members, employees or any other individual or entity, public or private.

48. Relationship of Parties.

Nothing contained herein shall be construed as to make the parties hereto partners, associates, joint venturers, or participants in any legal relationship other than that of lessor and lessee. Neither party hereto shall have the power to contract or incur any obligation or liability in the name of the other party.

49. Binding Effect.

This Lease shall be binding upon the successors and assigns of the parties hereto.

50. Recordation.

The parties agree that a memorandum of this Lease substantially in the form of Exhibit 8 attached hereto shall be recorded in the office of the King County Recorder.

51. Applicable Law.

This Lease shall be governed by and construed in accordance with the substantive laws of the State of Washington. Venue for any legal action under the Lease shall be King County Superior Court.

[signatures follow]

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

CITY OF SEATTLE

By: _____
Robert Nellams, Director
Seattle Center Department

CENTER ART LLC

By:_____

STATE OF WASHINGTON)
) ss. (Acknowledgement for City)
COUNTY OF KING)

On this _____ day of _____, 2011, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared Robert Nellams, known to me to be the Director of the Seattle Center Department of **THE CITY OF SEATTLE**, the party that executed the foregoing instrument as City, and acknowledged said instrument to be the free and voluntary act and deed of said party, for the purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

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

_____ _____
[Signature] *[Printed Name]*

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

My commission expires _____.

STATE OF WASHINGTON)
) ss. (Acknowledgement for Center Art, LLC)
COUNTY OF KING)

On this _____ day of _____, 2011, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of **CENTER ART, LLC**, the entity that executed the foregoing instrument as _____; and acknowledged to me that he signed the same as the free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that he was authorized to execute said instrument for said entity.

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

_____ _____
[Signature] *[Printed Name]*

NOTARY PUBLIC in and for the State of Washington residing at _____.
My commission expires _____

EXHIBIT 1

LEASE AREA LEGAL DESCRIPTION

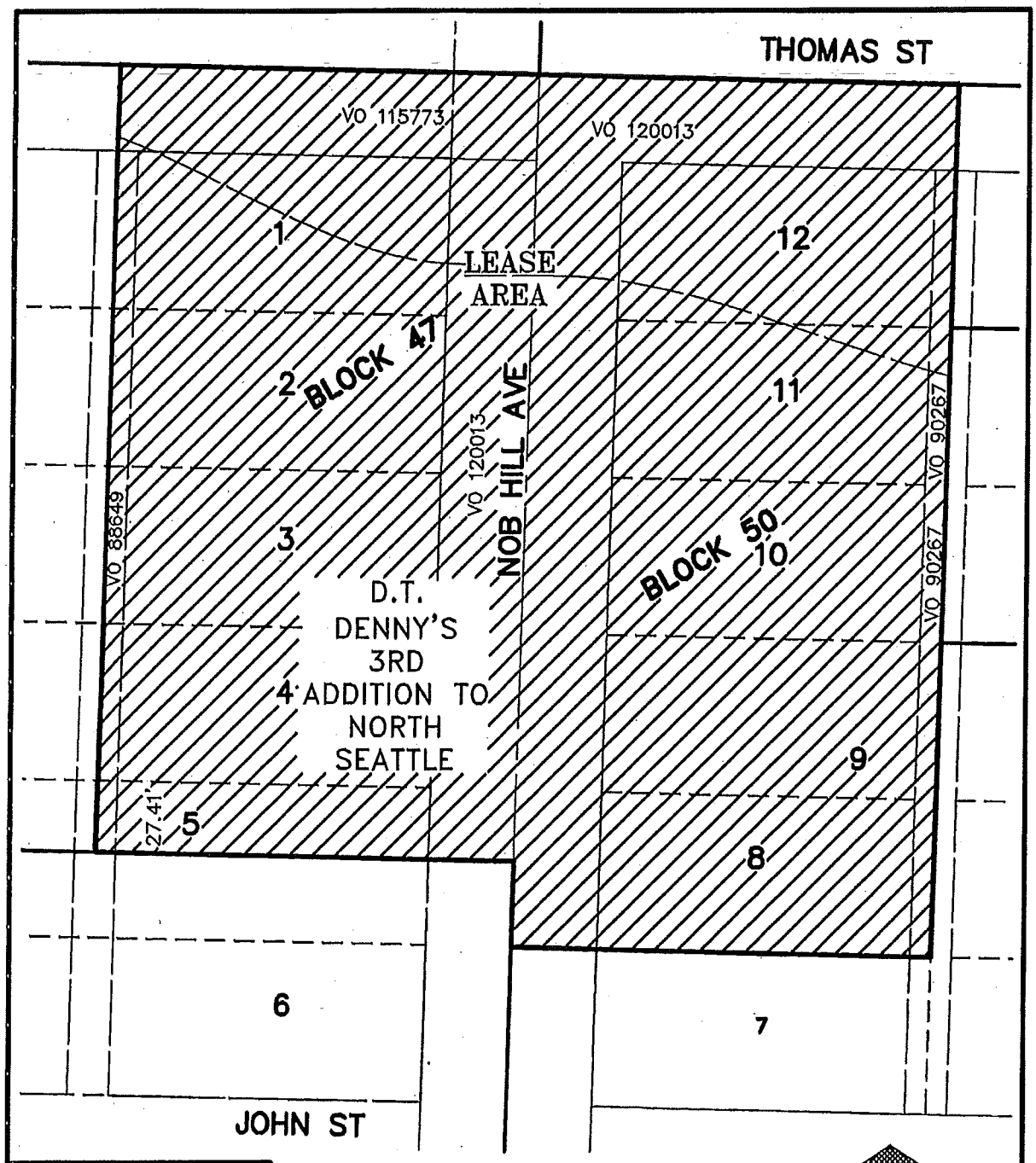
THE NORTHERLY 27.41 FEET OF LOT 5, AND ALL OF LOTS 1 THROUGH 4, INCLUSIVE, BLOCK 47, AND LOTS 8 THROUGH 12, INCLUSIVE, BLOCK 50, ALL OF D.T. DENNY'S 3RD ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 145, IN KING COUNTY, WASHINGTON;

TOGETHER WITH VACATED STREETS AND ALLEYS ADJOINING AS WOULD ATTACH BY OPERATION OF LAW;

CONTAINING AN AREA OF 101,917 SQUARE FEET, OR 2.3397 ACRES, MORE OR LESS;

SITUATE IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON.

JOHANN G. WASSERMANN, PLS
LIN & ASSOCIATES, INC.
LIN PROJECT NO.: 2013
FEBRUARY 17, 2011



JOHANN G. WASSERMANN
STATE OF WASHINGTON
18339
REGISTERED
PROFESSIONAL LAND SURVEYOR

LEASE AREA: 101,917 SF

SCALE: 1" = 60'

LEASE AREA EXHIBIT

DATE: FEB. 17, 2011

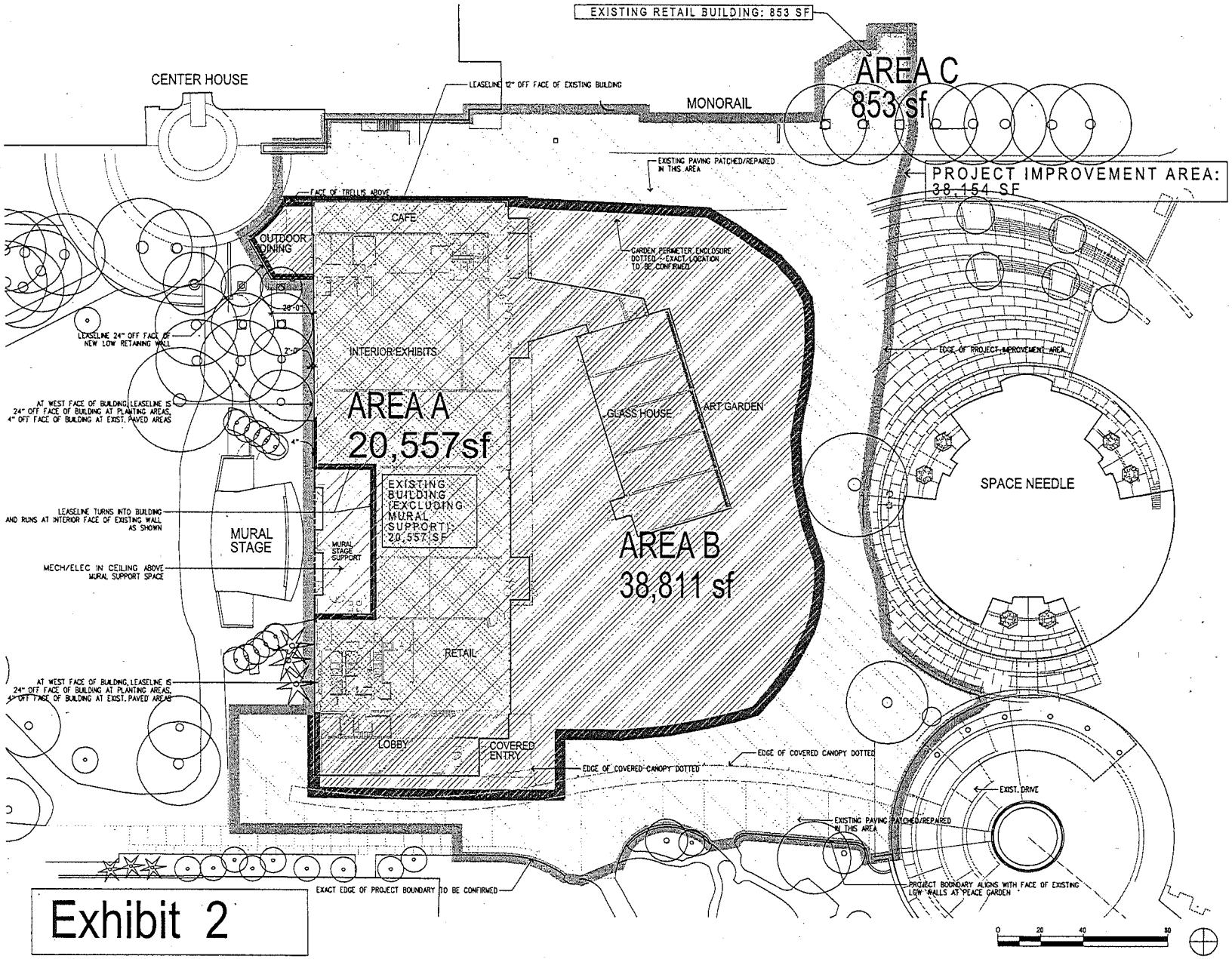


Exhibit 2

FUN FOREST
REDEVELOPMENT

Seattle Center
305 Harrison Street
Seattle, Washington 98109

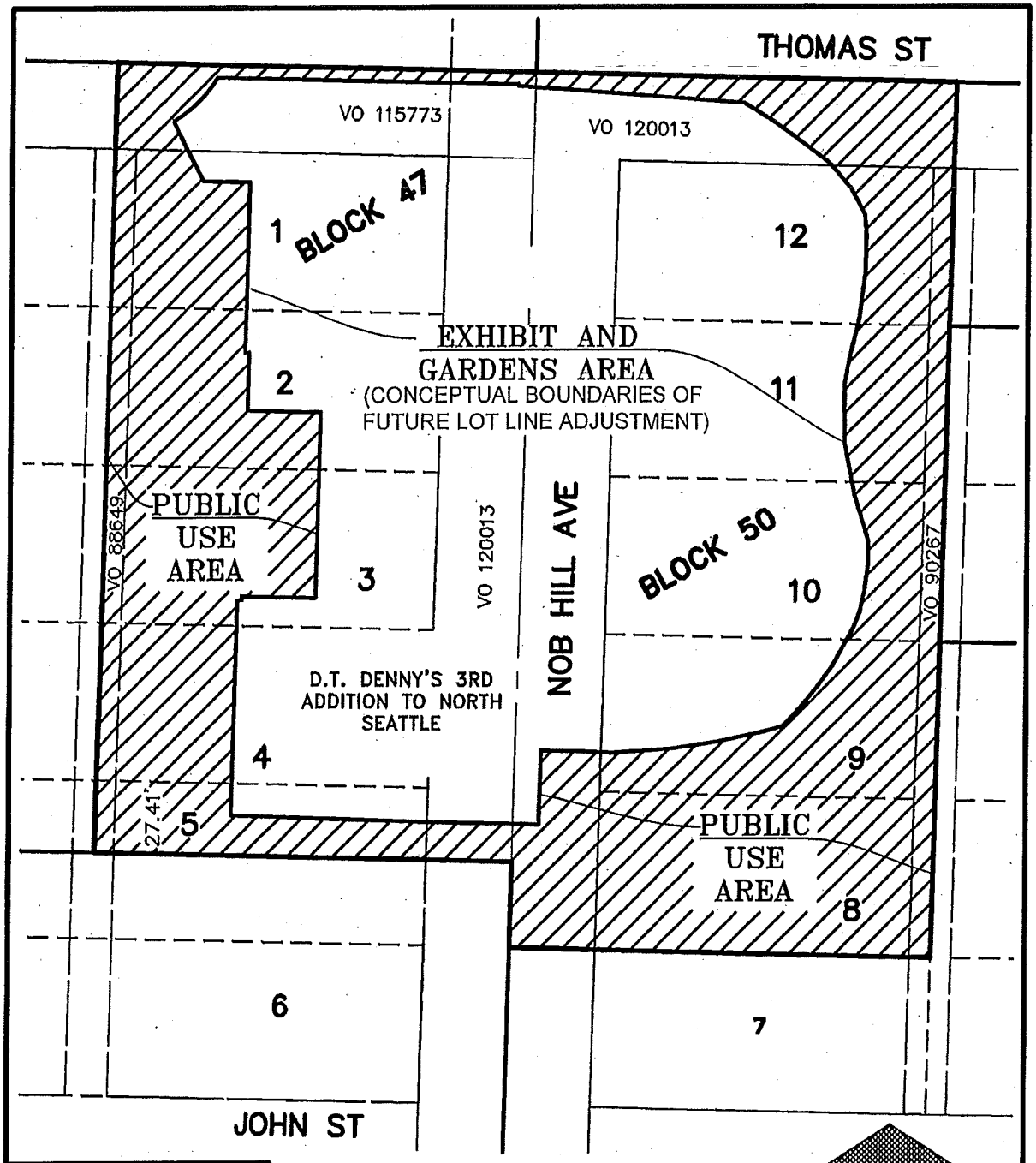
OWEN RICHARDS ARCHITECTS
1205 East Pike Street
Seattle, Washington 98122
tel 206.625.0941
fax 206.625.0935

REVISIONS

Issue	Date	Description

DRAWING TITLE
SITE PLAN:
LEASE AND PROJECT BOUNDARIES AND AREAS - SURVEY OVERLAY

SCALE 1"-20'-0"
DATE
DRAWING NO.
A2.0



JOHANN G. WASSERMANN
STATE OF WASHINGTON
33139
REGISTERED
PROFESSIONAL LAND SURVEYOR

EXHIBIT AND GARDENS AREA: 59,369 SF
PUBLIC USE AREA: 42,548 SF

TOTAL AREA: 101,917 SF

SCALE: 1" = 60'

EXHIBIT 3

DATE: MARCH 1, 2011

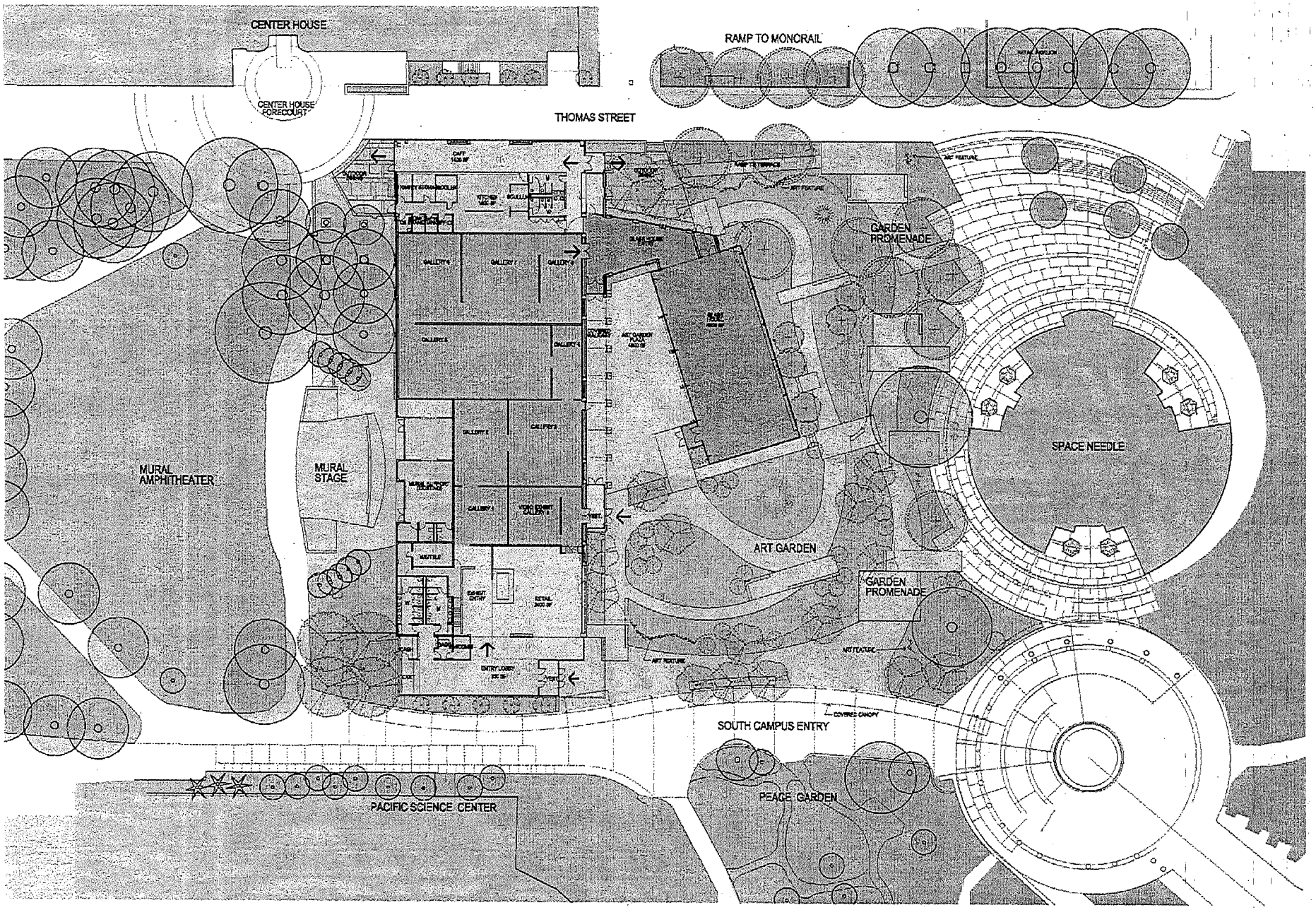

CENTER HOUSE
CENTER HOUSE FORECOURT
RAMP TO MONORAIL
THOMAS STREET
GARDEN PROMENADE
SPACE NEEDLE
MURAL AMPHITHEATER
MURAL STAGE
ART GARDEN
GARDEN PROMENADE
SOUTH CAMPUS ENTRY
PACIFIC SCIENCE CENTER
PEACE GARDEN

Exhibit 4

EXHIBIT 5 -- Form of Waiver - Section 16.1

TO SEATTLE CENTER
GLASS AND GARDENS EXHIBITION LEASE
CITY OF SEATTLE/CENTER ART LLC

VISUAL ARTISTS RIGHTS ACT AGREEMENT

This waiver (the "Waiver"), pursuant to the Visual Artists Rights Act of 1990 ("VARA") is entered into as of the date of the last signature (the "Effective Date") by and between _____ ("Author"), an individual with a residence at _____, and Center Art LLC ("Center Art"), with a business address _____ (each a "Party" and collectively the "Parties").

BACKGROUND

A. The Author created the sculptural works identified in Appendix A ("Building Art").

B. Building Art is defined in that certain lease (the "Lease") between Center Art and the City of Seattle dated as of _____, 2011.

C. Building Art has been, or will be, installed on the Premises (as defined in the Lease).

D. The Parties wish to confirm their respective rights in the Building Art pursuant to VARA.

THEREFORE, in consideration of and exchange for the premises and promises set forth in this Waiver, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Author expressly and forever waives any rights under VARA associated with the Building Art. This Waiver includes recognition that the Author waives any rights under VARA which could be asserted to:

(a) prevent the installation or subsequent removal of the Building Art, or

(b) form the basis of a claim that the installation or removal of the Building Art is a distortion, mutilation, modification, relocation, or destruction of the Building Art in whole or in part, whether intentional or unintentional or prejudicial to the honor or reputation of Author.

2. This Waiver relates only to Author's rights pursuant to VARA, and shall not constitute a waiver of any rights of Author (or any related entity) pursuant to any agreement related to the

Project (as defined in the Lease). This Waiver shall not apply to other artwork belonging to Author (including but not limited to any artwork constituting Artworks and Inventory as defined in the Lease) that is not Building Art. This Waiver shall be binding upon and inure to the benefit of the heirs, executors, administrators, personal representatives, successors in interest, assigns, and affiliates of the respective Parties. The Parties hereby confirm that their respective representatives are authorized to execute this Waiver on their behalf.

3. Author and Center Art agree and acknowledge that this executed Waiver shall be delivered to the Seattle Center Director, for the benefit of the City of Seattle and its successors and assigns, prior to installation of any Building Art in or at the Project.

IN WITNESS WHEREOF, the Parties have executed this Waiver as of the dates indicated below.

CENTER ART LLC

_____

Name: _____

Title: _____

Date: _____

[AUTHOR]

_____

Name: _____

Title: _____

Date: _____

SDCI CITY CLERK

APPENDIX A

Building Art

LHS CITY CLERK

EXHIBIT 6

Addendum 3

The Seattle Artists at Play Project: Seattle Center

A new non-profit foundation, the Artists at Play Foundation (AAP), will dedicate its efforts to the creation of artist-designed playgrounds for the enjoyment of children and families.

Project Description

The Artists at Play Foundation will fund and lead the development of a new playground for the Seattle Center Campus in an area selected by the Seattle Center, possibly on a portion of the new Center Square. Seed funding will come from a donation from the Space Needle, with $1,000,000 earmarked for this project. Ongoing financial support for upgrading and expanding the playground, estimated at $50,000 annually, will be led by the Artists at Play Foundation for the life of the lease of the proposed Chihuly exhibition at the south Fun Forest site.

Our goal is to create an imaginative and engaging playground with fun and safe play structures designed by local artists through AAP Foundation funding and at no expense to the City or Seattle Center. The playground development, from design competition to final installation, will be managed by the AAP Foundation, with special attention to creativity, accessibility; safety and durability. The Seattle Center will review and approve design and construction of the project at mutually agreed critical stages of development.

Project Key Features:

- Open design competition for Pacific Northwest artists
- Programming for children and families
- Lasting public benefit at no expense to the City of Seattle
- Free admission for the public
- Development to use best practices of sustainable design and construction
- Design to provide enjoyment by visitors of all ages including those with disabilities

SDS CITY CLERK

Project Development Process

The Artists at Play Foundation will run a competition to select artists for the project using the best practices of the public art field. Once the artists are selected, the AAP Foundation will manage the design and fabrication of the playground structures in collaboration with the Seattle Center. The intended design criteria are for the playground environment to be reflective of the Seattle Center, the 1962 World's Fair and/or the Seattle/Pacific Northwest region. Any professional artist working in the Seattle area can submit qualifications to the design competition.

The competition's selection panel will include representatives of the Seattle Center, Century 21 Committee, Seattle Center Advisory Board and the Seattle Office of Arts and Cultural Affairs.

The AAP foundation will work closely with the selected artists and play structure manufacturers to ensure the durability and safety of the playground. Once installation is complete, the improvements and playground structures will become the property of the Seattle Center.

The Artists at Play Foundation will promote the ongoing creation of additional artist-designed play structures at the Seattle Center campus or in other areas in the City of Seattle. This will ensure continued contributions to benefit the public and include Seattle artists in the development of the Seattle Center for years to come.

We expect that, working with the Seattle Center, the Art Playground would open in the spring of 2013.

Example of Art/Play Structures

A bronze play sculpture by Tom Otterness behind One River Place and Silver Towers, New York

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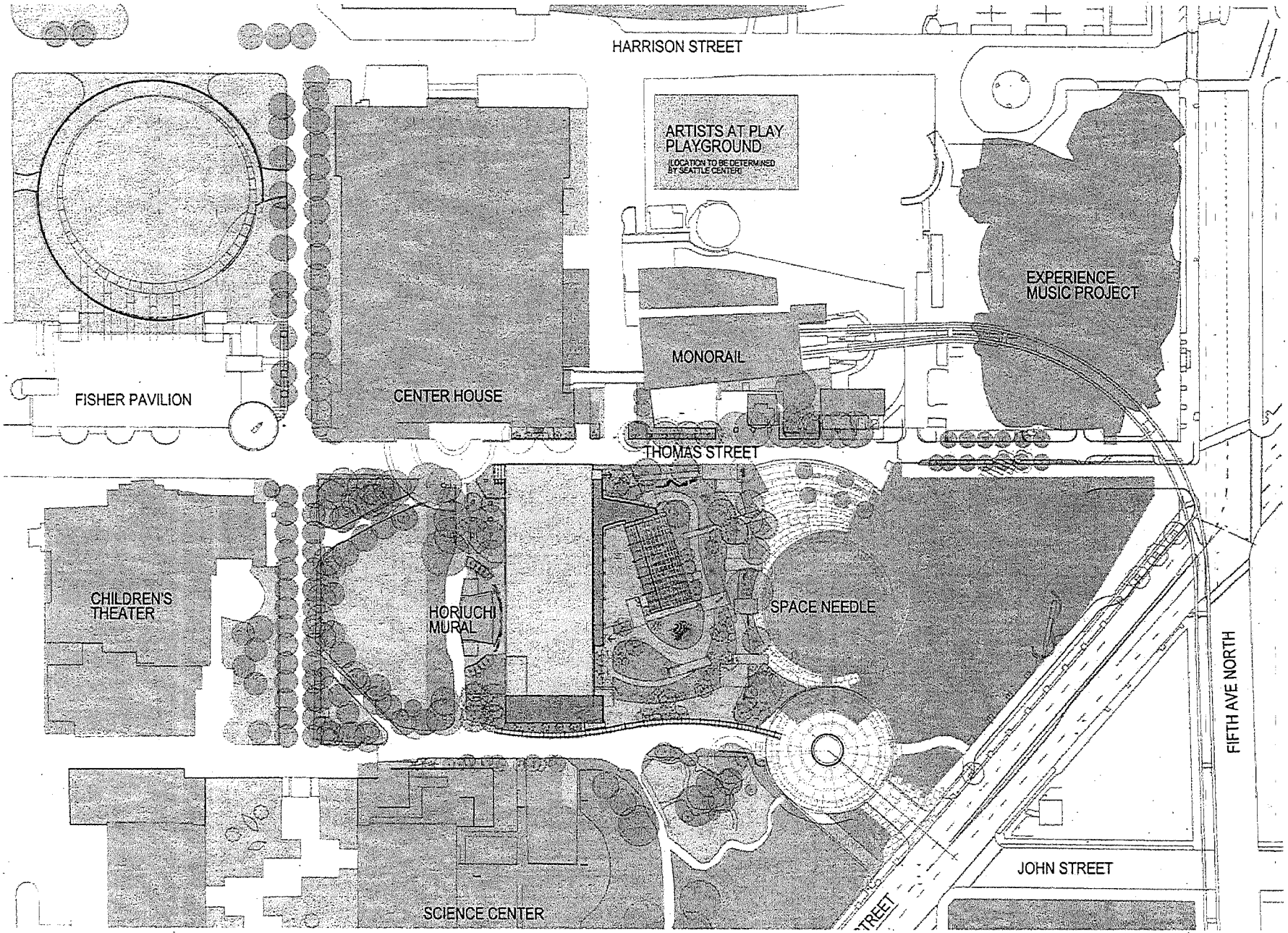

Exhibit 7

CITY CLERK

EXHIBIT 8 – Memorandum of Lease

TO SEATTLE CENTER
GLASS AND GARDENS EXHIBITION LEASE
CITY OF SEATTLE/CENTER ART LLC

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101
Attention: Beth A. Clark

MEMORANDUM OF GLASS AND GARDENS EXHIBIT LEASE
(City of Seattle/Center Art)

Grantor/Lessor:	THE CITY OF SEATTLE, a municipal corporation of the State of Washington
Grantee/Lessee:	CENTER ART LLC, a Washington limited liability company
Abbreviated Legal Description:	_____, situate in the City of Seattle, County of King, State of Washington Complete Legal Description is set forth in Exhibit A attached hereto
Assessor's Tax Parcel ID#:	_____
Reference # (If applicable):	N/A

THIS MEMORANDUM OF GLASS AND GARDENS EXHIBITION LEASE is dated as of _____, 2011 by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington ("Lessor"), and CENTER ART LLC, a Washington limited liability company ("Lessee").

1. Premises. Lessor has leased to Lessee, upon the terms and conditions of that certain lease between the parties dated as of _____, 2011 (the "Lease"), which terms and conditions are incorporated by this reference, that certain real property situated in the City

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of Seattle, King County, Washington, more particularly described on Exhibit A attached hereto.

2. Term. The Lease is for a term of five (5) years commencing _____ and ending _____, unless extended. Lessee has the right to extend the term of the Lease for five (5) additional terms of five (5) years each, which extension rights, if all were exercised, would result in the term of the Lease first expiring on _____.

3. New Lease. The Lease provides that under certain circumstances a lender with a leasehold mortgage on Lessee's leasehold estate interest in the Premises may cause a new replacement lease for the Premises on substantially the same terms as the Lease to come into existence and such new lease would be superior to all rights, liens and interests created by or established through the City between the date of the Lease and the date on which such new lease came into effect.

3. Purpose of Memorandum of Lease. This Memorandum of Glass And Gardens Exhibition Lease is prepared for the purpose of recordation and in no way modifies the Lease.

DATED as of the day and year first above written.

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

By: _____
Its: _____

LESSEE: CENTER ART LLC, a Washington limited liability company

By: _____
Its: _____

DRS CITY CLERK

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, ____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to the _____ of the Seattle Center for the City of Seattle, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute the said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at _____

My appointment expires _____

LAW CITY CLERK

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, ____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to the _____ of Center Art LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at _____

My appointment expires _____

CITY CLERK

EXHIBIT A
MEMORANDUM OF GLASS AND GARDENS EXHIBIT LEASE
(City of Seattle/Center Art)

Legal Description

Situate in the City of Seattle, King County, Washington.

Ned Dunn
CEN Chihuly Agreement FISC
March 31, 2011
Version #3

Form revised: December 14, 2010

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Center	Ned Dunn 684-7212 Jill Crary 684-7107 Rebecca Keith, Law, 684-8239	Greg Shiring 386-4085

Legislation Title: AN ORDINANCE relating to the Seattle Center; authorizing the Director of Seattle Center to execute a lease agreement with Center Art, LLC for the development, construction, and operation of a glass and gardens exhibition space for Chihuly glass, a retail shop and related uses, while also providing for improvements to public areas of Seattle Center; and ratifying and confirming certain acts.

Summary and background of the Legislation:

The attached legislation authorizes a lease agreement with Center Art, LLC ("Center Art") under which the City leases certain spaces on the Seattle Center campus (see below) to Center Art. In exchange, Center Art shall pay rent and provide public benefits, as further described below.

The area covered in this lease agreement is the South Fun Forest site that is being vacated by the Fun Forest in early 2011. As part of Seattle Center's planned redevelopment of this area, in April 2010 the department issued a Request for Proposals (RFP) for redevelopment of the South Fun Forest site. The department received nine responses to the RFP. In an effort to involve a broad range of community interests in the review, the department established a citizens RFP review panel (the "Review Panel") that included members of the Century 21 Master Plan Committee, with the Chair of the Seattle Center Advisory Commission acting as Chair of the Review Panel. Between June and September, the Review Panel analyzed the proposals according to a number of principles and criteria set forth in the RFP, including consistency with the Planning and Design Principles of the Century 21 Master Plan. The Review Panel led a community meeting and open house on July 7, where all proposals were displayed. In September, the Review Panel submitted its recommendation to the Seattle Center Director that the proposal submitted by the Space Needle LLC to construct and operate an exhibit space, event pavilion and art garden featuring the work of glass artist Dale Chihuly, and including a number of public benefits, best satisfied the criteria and would most benefit Seattle Center.

The Seattle Center Director forwarded the Review Panel's recommendation to the Mayor. Subsequent discussions involving the Mayor's Office, the City Council, Seattle Center, and the Space Needle led to the lease agreement with Center Art to be authorized by this legislation. A summary of the lease agreement terms follows:

Areas included in Lease

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- Exhibit and Garden Area – Approximately 20,557 square feet in the former Fun Forest Pavilion Building (excluding the Mural amphitheatre support spaces, which will continue to be used by the City) and a paved area of approximately 38,811 square feet. This area will be used primarily for a Chihuly glass exhibition, including indoor and outdoor glass art exhibitions, gardens, and related ancillary uses.

- Public Use Area – Under the lease, Center Art will lease and make improvements to an area in which the City has reserved rights. This area will remain open to the general public and is referred to in the lease as the "Public Use Area". The Exhibit and Garden Space and Public Use Area are depicted in Exhibit 3 of the Lease Agreement. The lease contemplates that after the initial improvements are complete, the premises may be reduced by a lot line adjustment, if feasible.

- Retail Space – An existing retail building of approximately 853 square feet leased for retail sales.

Term of Agreement

- Initial term of five (5) years, with Center Art having the right to renew the lease for five (5) additional five-year terms.

- The initial term of the lease shall commence on the later of April 1, 2011, or the date Center Art receives permits for demolition, clearing and grading work and takes possession of the leased premises.

Rent

- Center Art will pay an annual base rent of $350,000 for the initial five-year term, increasing to $500,000 per year in years 6 through 30.

- Center Art will pay additional rent of 8% of the net proceeds from the sale of Chihuly fine art sold on the site for any lease option extension period (years 6 – 30).

- The base rent during the five, five-year renewal periods shall be increased by the CPI, provided that the total CPI increase to the base rent does not exceed 10% for any five-year period.

- The base rent shall commence upon the opening of the exhibition to the general public, no later than April 2012.

- During construction, Center Art shall pay rent of $10,000 per month.

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Public Benefits and Community Partners

- Center Art will donate $1,000,000 to fund a children's playground at Seattle Center with structures designed by local artists.

- Center Art will contribute $50,000 each year for maintenance of the children's playground.

- Center Art will support arts education and engagement with at least four community partners for the first five years. These partners are initially identified as follows:

  - Seattle Public Schools – develop an 8th grade student curriculum program and provide for transportation of students to and from the exhibit.

  - Pilchuck Glass School – Sponsorship of a new arts lecture series with Pilchuck that culminates in a celebration of the work of Pilchuck and honors the Pacific NW Studio Glass Movement.

  - Pratt Fine Arts Center – Free admission for Pratt students, an arts lecture series on the site, support of fundraising support for scholarships and tuition assistance.

  - Arts Fund – Hosting of an annual event to raise funds for the arts.

- An additional approximately 39,042 square feet of the Seattle Center campus, adjacent to the north, east and south boundaries of the Premises has been identified as the "Project Improvement Area" and will be redeveloped as part of the project to create enhanced open space and pedestrian pathway for public use.

- Center Art will work cooperatively with Seattle Center to create a regular free admission program in conjunction with other Seattle Center resident organizations under a branded "Center Nights" or similar framework, pursuant to which Center Art shall make a minimum of 10,000 free tickets available annually.

- Center Art will use all commercially reasonable efforts to design and construct the Project according to LEED Silver standards.

Tax Revenues

- The City will collect additional revenue from a combination of sales and use tax, B&O tax, and admissions tax as a result of the Chihuly exhibition.

- The County will receive additional tax revenues from the sales and use tax on food and beverages from the planned cafe.

- The City and State will share the proceeds of 12.84% leasehold excise tax on lease payments made as part of the Chihuly exhibit.

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Other

- At the end of the lease term, all capital improvements made to the premises by Center Art, other than the improvements in public areas, shall be removed at Center Art's expense, although the Director has the option under the lease to allow the improvements (with the exception of artwork) to remain and become City property.

Please check any of the following that apply:

____ **This legislation creates, funds, or anticipates a new CIP Project.**
(Please note whether the current CIP is being amended through this legislation, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)

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

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

Appropriations:
This table should detail existing appropriations and reflect appropriations that are a direct result of this legislation. If this legislation does not directly change an appropriation, but has budget impacts, please explain in the notes section below:

Fund Name and Number	Department	Budget Control Level*	Existing 2010 Appropriation	New 2011 Appropriation (if any)	2012 Anticipated Appropriation
TOTAL					

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

Appropriations Notes:
No new appropriation needed. The capital project being constructed pursuant to this agreement is 100% privately-funded. The lease payments are included in the department's revenue projections in the 2011 Adopted and 2012 Endorsed Budgets.

Uses and Sources for Operation and Maintenance Costs for the Project:

O&M	2011	2012	2013	2014	2015	2016	Total
Uses							
Start Up							
On-going							
Sources (itemize)							

Operation and Maintenance Notes:

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There are no new O&M expenses as a result of this 100% privately funded project. Center Art is contributing $50,000 per year for maintenance of the children's playground they are funding as one of the public benefits of this agreement. The Adopted 2011 and Endorsed 2012 Operating Budget assumes the labor expenses related to landscape maintenance and basic cleaning in the existing Fun Forest South area. The maintenance obligations related to the new Center Art project will be managed to fit within the existing resources for this purpose.

Periodic Major Maintenance Costs for the Project:
Estimate capital cost of performing periodic maintenance over life of facility. Please identify major work items, frequency.

Major Maintenance Item	Frequency	Cost	Likely Funding Source
TOTAL			

Funding sources for replacement of project:

Major maintenance costs will be funded by Center Art, and the Department will not assume responsibility for any project replacement expenses during the course of the lease.

What is the financial cost of not implementing the legislation?

If this agreement is not approved and the Chihuly exhibition does not go forward, the City will forego the financial benefits outlined above, including:

- $350,000 (increasing to $500,000) in annual base rent.
- Loss of additional tax revenues to the City.
- Loss of additional tax revenue to the State and King County.
- $1,000,000 capital contribution and $50,000 a year in annual maintenance for a children's playground.

Does this legislation affect any departments besides the originating department?

No.

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

The City considered multiple alternatives through a public RFP process and determined that this proposal was the most beneficial to the City. No alternatives were identified that would provide the same level of benefits to the City and the public.

Is the legislation subject to public hearing requirements?

No.

Other Issues:

None.

List attachments to the fiscal note below:

City of Seattle
Office of the Mayor

March 15, 2011

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that authorizes a lease agreement with Center Art, LLC ("Center Art") for the development, construction, and operation of a glass and gardens exhibition space for Chihuly glass, a retail shop, and improvements to public areas of Seattle Center, including an artist-designed children's play area. This agreement is the culmination of a public process that began in May 2010, when Seattle Center issued a Request for Proposals for redevelopment of the South Fun Forest site being vacated by the Fun Forest in early 2011. Nine proposals were received in response to the RFP and reviewed by a citizens review panel according to a number of principles and criteria set forth in the RFP, including staying true to the Planning and Design Principles of the Seattle Center Century 21 Master Plan. The lease agreement with Center Art represents the development option recommended by the Review Panel, and then further enhanced through discussions among the Space Needle, Seattle Center, City Council and the Mayor's Office.

Under the lease agreement with the City, Center Art will pay an initial rent of $350,000, increasing to $500,000 in year six. The agreement includes a number of public benefits, including a donation of $1 million by Center Art for a children's play area, as well as annual contributions of $50,000 for maintenance of the play area. In addition, Center Art will make landscape improvements on the north, south, and east edges of the site, providing improved pedestrian circulation into the Seattle Center campus. Center Art will also create a free admission program for the glass and gardens exhibition space and will work to support arts education and engagement with four community partners: Seattle Public Schools, Pratt Fine Arts Center, Pilchuck Glass School, and ArtsFund.

This agreement will provide a major visitor destination at Seattle Center, make open space improvements for the public, and create a major attraction on the campus for children and families, all privately funded. Thank you for your consideration of this legislation. Should you have questions, please contact Robert Nellams at 684-7334.

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.mcginn@seattle.gov

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