

8
117285

Kerry Smith
CEN KEXP Lease ORD
August 18, 2011
Version # 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE _____

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute a ten year lease agreement, with additional options to extend, with Friends of KEXP; under which agreement KEXP will renovate and lease space in the Northwest Rooms and a portion of the adjacent courtyard at Seattle Center for use as KEXP's radio broadcast studios and offices, performance spaces, a café, a shared use outdoor stage, and other uses supporting KEXP's operations.

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, a lease agreement with Friends of KEXP, substantially in the form of the agreement attached hereto and identified as "NORTHWEST ROOMS LEASE BETWEEN THE FRIENDS OF KEXP AND THE CITY OF SEATTLE" (Attachment 1) under which Friends of KEXP shall lease certain space in and near the Northwest Rooms at Seattle Center for an initial ten year term.

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



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

4
5
6 _____
7 President _____ of the City Council

8
9 Approved by me this ____ day of _____, 2011.

10
11 _____
12 Michael McGinn, Mayor

13
14 Filed by me this ____ day of _____, 2011.

15
16 _____
17 Monica Martinez Simmons, City Clerk

18 (Seal)

19
20 Attachment 1: Northwest Rooms Lease Between the Friends of KEXP and the City of Seattle
21
22
23
24
25
26
27
28



ATTACHMENT 1

NORTHWEST ROOMS LEASE

BETWEEN

THE FRIENDS OF KEXP

AND

THE CITY OF SEATTLE

Table of Contents:

1.	Summary Lease Data.....	4
2.	Premises.....	6
3.	Lease Term.....	9
4.	Rent.....	10
5.	Late Charge; Interest.....	12
6.	In-Kind Rent Application.....	12
7.	Reports; Records and Audits, Annual Meetings.....	13
8.	KEXP's Operations.....	14
9.	Utilities, Parking and Security.....	18
10.	Licenses and Taxes.....	20
11.	Initial Improvements; Subsequent Alterations; Ownership.....	20
12.	Maintenance and Operations.....	23
13.	Installation of Artwork.....	26
14.	Continuous Operation.....	27
15.	Joint Programming.....	27
16.	Surrender of Premises.....	27
17.	Indemnification; Release.....	28
18.	Insurance.....	29
19.	Public Benefits and Community Partnerships.....	29
20.	Assignment and Sublease.....	31
21.	Encumbrance of Leasehold Estate.....	32
22.	Assignment by City.....	33
23.	Damage or Destruction.....	33
24.	Default by KEXP.....	34
25.	Default by City.....	36
26.	Attorney's Fees.....	36
27.	Access by City.....	36
28.	Holding Over.....	36
29.	Notices.....	37
30.	Dispute Resolution.....	37
31.	Force Majeure.....	37

32. Execution by City and KEXP..... 38
33. Time of Essence; Time Calculation Method..... 38
34. City’s Control of Premises and Vicinity..... 38
35. City’s Reserved Sponsorship and Advertising Rights; Signage; Naming
Advertising..... 39
36. Entire Lease; Amendments; Applicable Law..... 42
37. Partial Invalidity..... 42
38. Counterparts..... 42
39. Section Headings..... 42
40. Director’s Approval..... 43
41. Context..... 43
42. Negotiated Lease..... 46

Exhibit 1..... 46
Exhibit 2..... 47
Exhibit 3a..... 48
Exhibit 3b..... 48
Exhibit 4..... 50
Exhibit 5..... 52
Exhibit 6..... 59
Exhibit 7..... 63

**NORTHWEST ROOMS LEASE BETWEEN THE FRIENDS OF KEXP
AND THE CITY OF SEATTLE**

This Northwest Rooms Lease Between the Friends of KEXP and The City of Seattle (the "Lease") is entered into this ____ day of _____, 2011, by and between **THE CITY OF SEATTLE** ("City"), a city of the first class of the State of Washington, acting by and through its Seattle Center Department ("Seattle Center") and its Director (the "Director"), and **FRIENDS OF KEXP** ("KEXP"), a Washington non-profit corporation. The City and KEXP shall collectively be referred to herein as the "Parties," and each individually as a "Party."

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

1. Summary Lease Data.

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

1.1 The Building. An existing building commonly referred to as the Upper Northwest Rooms at Seattle Center campus, located in Seattle, Washington and situated on real property legally described on Exhibit 1.

1.2 Premises. The Premises comprise approximately 27,960 square feet of space located on the main floor of the Building and identified as the San Juan Rooms, Olympic Room, and Rainier Room, including the adjacent entryway, and at KEXP's option, up to a maximum of 800 square feet of surface courtyard area located within the area identified as the "Stage Area", all as depicted on Exhibit 2. The Parties acknowledge that as of the date of execution of this Lease, the precise location of the New Stage (defined below) within the Stage Area has not yet been specifically identified. The Director will review and approve the size and location of the New Stage within the Stage Area under Section 11.3 below, and if KEXP elects to include the New Stage as part of the Premises, upon completion of construction, the Director and KEXP will amend the description of the Premises to reflect the portion of the courtyard actually occupied by the New Stage. The demised Premises do not include any other areas of the Building, any subsurface areaways or tunnels, or any air rights above the Building.

1.3 New Stage. The new stage to be constructed by KEXP within the Stage Area depicted on Exhibit 2 as part of KEXP's Initial Improvements.

1.4 Effective Date. The date this Lease is fully executed by a representative of each Party following authorization by ordinance of the Seattle City Council.

1.5 Commencement Date. The Premises will be delivered to KEXP and the Lease Term will commence on November 1, 2013 ("Commencement Date"), provided the following conditions have been met ("Commencement Conditions"): 1) the City of Seattle Department of Planning and Development ("DPD") has issued a permit for KEXP to commence the Initial Improvements; 2) KEXP has demonstrated to the reasonable satisfaction of the City's Budget Director and the Director that KEXP has sufficient funds to complete the Initial Improvements; and 3) the Parties have executed a construction agreement for the Initial Improvements. Upon request by either Party, KEXP and Seattle Center will mutually confirm the actual Commencement Date in writing.

1.6 Expiration Date. One hundred twenty (120) complete calendar months after the Commencement Date, unless this Lease is extended under Section 3.4 or terminated under the conditions herein.

1.7 Rent. As used in this Lease, Rent means and includes all sums due from KEXP to the City, including Cash Rent, In-Kind Rent, Additional Rent and Additional Charges.

Cash Rent: \$62,500 annually (\$5,208.33 monthly) for the first five (5) years of the Term, and thereafter as shown in Section 4.1 and 4.4.

In-Kind Rent: \$155,000 in On-Air Spots and \$73,000 in Top-Of-The-Hour Tags for the first five years of the Term, and thereafter as shown in Section 4.1 and 4.4. The initial monthly installment of the annual In-Kind Rent is \$19,000.

Additional Rent: Fifteen percent (15%) of KEXP's Gross Rents or value in lieu of rent received from any subleasing or licensing of the Premises to third parties, as further described in Section 4.5.

Additional Charges: All other sums due City by KEXP under this Lease.

1.8 Option Fee. \$31,250 per Option, payable as described in Section 3.3.

1.9 Initial Improvements. The improvements, additions, and alterations that KEXP will make to the Premises as further described in Section 11.

1.10 Notice Addresses.

To the City: Seattle Center Director
Seattle Center House
305 Harrison Street
Seattle, Washington, 98109

To KEXP: KEXP Director of Operations
Friends of KEXP
113 Dexter Avenue North
Seattle, Washington, 98109

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

Exhibit 1: Legal Description
Exhibit 2: Premises Floor Plan
Exhibit 3: Conceptual Initial Improvements
Exhibit 4: Exclusivity Rights at Seattle Center
Exhibit 5: MOA for Event Curbside Management
Exhibit 6: Insurance
Exhibit 7: Sample Utility Proration Methodology and Invoice

2. Premises.

2.1 Grant. The City hereby leases the Premises to KEXP and KEXP hereby leases the Premises from the City, subject to and in accordance with all the terms and conditions under this Lease.

2.2 Condition. KEXP is familiar with and has inspected the Premises, which City leases and as of the Commencement Date KEXP accepts from City in "AS IS" condition, subject to completion of the City Improvements (as defined in Section 11.2).

2.3 Permitted Uses. KEXP shall renovate and use the Premises for the construction, installation, maintenance and operation of a non-profit radio station broadcast facility and music and arts organization, including KEXP's broadcast and production studios and related purposes, such as administrative and business offices, programs, fundraising to support KEXP's programs and operations, and performance spaces. Additionally, at its option, KEXP may use a portion of the Premises for the development and operation of a café featuring live or recorded music and occasional dancing, and may use a portion of the Premises for incidental retail sales related to KEXP's operation as a music and arts organization. These uses are referred to collectively as the "Permitted Uses". KEXP may sublease or license up to twenty-five percent (25%) of the Premises pursuant to subleases for terms of (30) thirty days or less each for uses that support KEXP's operation as a nonprofit music and arts organization and that are consistent with Seattle Center's overall mission, without requiring approval from the City or the Director, provided that no such sublease or license shall relieve KEXP from any of its obligations under the Lease. Any subleasing, assignment or licensing of the Premises that is not expressly allowed in this Section 2.3 is subject to the Director's prior written approval under Section 20.1. KEXP shall not use the Premises for any purpose other than the Permitted Uses without the Director's prior written approval.

2.4 Use of Northwest Rooms Courtyard. KEXP will have the opportunity to use the Northwest Rooms Courtyard area adjacent to the Premises, as such area is now or hereafter constituted, to produce up to five (5) private events per year of the Lease Term, subject to the Director's prior approval, which may be granted, conditioned, or withheld in the Director's reasonable discretion. KEXP will conduct any such event in compliance with applicable Seattle Center labor agreements and other policies and procedures.

2.5 Access Prior to the Commencement Date. KEXP may enter the Premises after the Effective Date but before the Commencement Date to examine and conduct studies of the land and the existing structure, subject to the Director's approval, which may be granted, withheld, or conditioned in the Director's reasonable discretion. KEXP shall give the Director reasonable advance notice of such entry, including a description of the proposed activities, and will comply with all applicable laws and any reasonable conditions of access the Director shall require, including but not limited to providing evidence of the commercial general liability insurance required under Section 18. KEXP's indemnification obligations under Section 17 shall be applicable to any access or use of the Premises prior to the Commencement Date, and KEXP hereby releases the City from any liability or claim of damages arising from KEXP's entry or access in or around the Premises, except for any liability or damages caused by the negligence or misconduct of the City.

2.6 License to Use Common Areas. During the Term, KEXP and its employees, contractors, agents and invitees will have access to the Premises 365 days per year and may use the Seattle Center common areas as from time to time constituted, including without limitation, parking lots, walkways, seating areas, and restrooms, in common with all other users and visitors of the Seattle Center and subject to such general hours, rules and regulations as the Director may establish. Additionally, KEXP may use common areas that are designated by the Director for temporary construction staging all as further detailed in the Construction Agreement. The Director shall have the exclusive control and management of all common areas.

2.7 New Stage.

2.7.1 Construction and Ownership. At its sole cost and expense, KEXP will design and construct the New Stage within the Stage Area to provide free public access to programming of live music and other public events. The design and construction of the New Stage shall be part of the Initial Improvements, subject to Section 11. Upon completion of the Initial Improvements and upon issuance of a Certificate of Occupancy, at its option, KEXP may transfer ownership of the New Stage to the City, and KEXP will have a license to use the New Stage consistent with this Section 2.7 during the Term. Alternatively, KEXP may elect to include the New Stage in the leased Premises for no additional Rent. The City will own the New Stage upon expiration or termination of the Lease.

2.7.2 Programming and Use. The Parties share the goal of attracting audiences to live performances. The parties shall work cooperatively to book the New Stage using the

guidelines in this Section 2.7.2 through 2.7.8. While it is the intention of the Parties that the New Stage shall primarily serve as a venue providing free public programs, KEXP may occasionally charge admission to programs on the New Stage in conjunction with KEXP events in the Northwest Rooms Courtyard scheduled under Section 2.4.

2.7.3 Priority. The festivals identified in Section 19.1.3 shall have the right to use the New Stage on an annual basis. For all other days, the booking priority will be as follows:

- a. From sixty (60) calendar days or less prior to an available date, KEXP will have first right of refusal for use of the New Stage on that date.
- b. Before sixty (60) calendar days prior to an available date, Seattle Center will have the first right of refusal for use of the New Stage on that date.

For example, if Seattle Center desires to schedule use of the New Stage on an unscheduled date occurring within thirty (30) days, the proposed event will be subject to KEXP's approval. If KEXP desires to schedule use of the New Stage on an unscheduled date occurring within ninety (90) days, the proposed event will be subject to Seattle Center's approval.

2.7.4 Booking. Seattle Center's booking calendar, using the Seattle Center Event Management booking system ("EMS"), or any future Seattle Center successor system, will serve as the master calendar for all dates to determine New Stage availability. The parties will develop standard operating procedures to share calendar information efficiently so as to avoid any conflicts or delays in booking dates. KEXP will provide Seattle Center with a weekly briefing of its intended use of the New Stage for the upcoming week, but Seattle Center acknowledges that KEXP may use the New Stage on unscheduled days on an impromptu basis with less than 24 hours notice subject to Seattle Center labor agreements if applicable.

2.7.5 Plaza Events. From time to time a Seattle Center client may program outdoor activities on the KeyArena (or its successor name) West Plaza near the New Stage. In such event, Seattle Center and KEXP will work cooperatively to ensure that West Plaza and New Stage programming are not in conflict.

2.7.6 Booking Exceptions. The Director reserves the right to occasionally overrule the booking process outlined in this Section and to schedule the New Stage at the Director's discretion, should an unanticipated, non-performance community event, such as a memorial service, require use of the New Stage.

2.7.7 Northwest Rooms Courtyard Use. It is acknowledged that events on the New Stage will draw audiences to the Northwest Rooms Courtyard, and that separate, simultaneous events in the Northwest Rooms Courtyard may not be compatible with New

Stage events, and vice versa. The parties will therefore consider that if the New Stage is scheduled for use, the Northwest Rooms Courtyard is generally unavailable for other activities, and if the Northwest Rooms Courtyard is scheduled for use, the New Stage is generally unavailable for other activities. The Parties will use best efforts to coordinate if a New Stage event and a separate Northwest Rooms Courtyard event are proposed for the same date. If a conflict cannot be resolved, the priority will be given to the event that reserved the date first, per the data in EMS.

2.7.8 KeyArena Event Ingress and Egress. New Stage events shall not impede KeyArena (or its successor name) event ingress and egress.

2.8 License to Use Tunnel and Subsurface Areas of Building. Throughout the Term, KEXP shall have a non-exclusive license to access the utility tunnel or other areas of the Building that are not part of the Premises, in locations approved by the Director, to the extent necessary for construction of the Initial Improvements or for satisfying KEXP's maintenance obligations in accordance with this Lease, provided that such access is coordinated with the Director.

2.9 Survey; Confirmation of Premises. KEXP shall have the option to conduct a survey at its own cost to confirm the boundaries of the Premises.

3. **Lease Term.**

3.1 Initial Term. This Lease shall be for a term beginning on the Commencement Date specified in Section 1.5 and ending on the Expiration Date specified in Section 1.6 ("Initial Term"), unless the Term is terminated earlier in accordance with the provisions of this Lease or extended as provided in Section 3.4 below. As used in this Lease, "Term" includes the Initial Term and any extended terms.

3.2 Commencement Conditions Report. On or before November 1, 2012, KEXP shall provide the City with a written report, for review by the Director and City Budget Director, regarding the most current results of KEXP's fundraising efforts, the current design of the Initial Improvements, KEXP's business plan as it relates to the use of the Premises, and any other information relevant to show KEXP's progress toward meeting the Commencement Conditions in Section 1.5. Notwithstanding the foregoing, in no event shall KEXP be required to include in the report described in this Section 3.2 the names of specific donors, specific donor prospects, or dollar amounts pledged by specific actual or prospective donors.

3.3 Lease Commencement Options.

3.3.1 Options. At its option, KEXP may delay the Commencement Date by one year ("Option") on two successive occasions by paying the Option Fee of \$31,250 on each occasion. The payment may be made in cash or through the provision of \$31,250 worth of

(20) twenty-second On-Air Spots calculated by applying the then current in-kind Average Unit Rate (AUR). In the event the Option Fee is paid with On-Air Spots, KEXP and City shall mutually agree on the timing, placement and content of the On-Air Spots.

3.3.2 Conditions for KEXP Exercise of Lease Options. In addition to paying the Option Fee, KEXP shall provide the City written notice by May 1, 2013 of KEXP's decision to exercise the first one-year Option, and by May 1, 2014 for the second one-year Option, time being of the essence. The written notice shall include an updated report with the information described in Section 3.2, and any other information that will assist the Director and City Budget Director in reviewing KEXP's progress towards satisfying the Commencement Conditions and the anticipated Commencement Date. Notwithstanding KEXP's exercise of an Option, and provided that the conditions in Section 1.5 have been satisfied, KEXP may cause the Commencement Date to occur at any time after November 1, 2013 upon six (6) months written notice to the Seattle Center.

3.4. Termination Prior to the Commencement Date. KEXP may terminate the lease anytime before the last possible Commencement Date of November 1, 2015. If the Commencement Date does not occur by November 1, 2015, this Lease will terminate automatically. The parties hereby mutually waive any claims against one another for failure of the conditions that would cause this Lease to commence, except for claims related to bad faith or intentional failure to satisfy or accept satisfaction of the Commencement Conditions.

3.5 Extended Terms. At the expiration of the Initial Term, KEXP shall have the option to extend the Lease for four (4) additional successive terms of five years each (each an "Extended Term"). KEXP must exercise the option to extend by providing the Director with written notice of its intention no later than twelve (12) months prior to the expiration of the then-current Term, time being of the essence; provided that if KEXP shall have any uncured Default at the latest time required for exercise of the option to extend, such option shall be null and void. All terms and conditions of this Lease shall apply to any Extended Term.

4. Rent.

4.1 Annual Rent. Beginning on the Commencement Date, annual Rent shall be a combination of Cash Rent and In-Kind Rent as shown in the following table.

Year	Cash Rent	In-Kind Rent	In-Kind Rent	Total Annual Rent
		On-Air Spots	Top-Of-The-Hour Tags	
Year 1	\$62,500	\$155,000	\$73,000	\$290,500
Year 2	\$62,500	\$155,000	\$73,000	\$290,500
Year 3	\$62,500	\$155,000	\$73,000	\$290,500
Year 4	\$62,500	\$155,000	\$73,000	\$290,500

Year 5	\$62,500	\$155,000	\$73,000	\$290,500
Year 6	\$63,750	\$158,100	\$74,460	\$296,310
Year 7	\$65,025	\$161,262	\$75,949	\$302,236
Year 8	\$66,326	\$164,487	\$77,468	\$308,281
Year 9	\$67,652	\$167,777	\$79,018	\$314,447
Year 10	\$69,005	\$171,133	\$80,598	\$320,736

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

4.3 In-Kind Rent. Beginning on the Commencement Date and thereafter during each month of the Lease Term, KEXP shall provide to City the monthly installment of annual In-Kind Rent. The In-Kind Rent shall be provided throughout each month of the Term using the process and valuation method described in Section 6. Monthly In-Kind Rent shall be prorated on a daily basis for any partial calendar month within the Lease Term.

4.4 Rent During Extended Terms. The Cash and In-Kind Rent for each year of the Extended Term under this Lease shall be as shown in the following table.

Year	Cash Rent	In-Kind Rent	In-Kind Rent	Total Annual Rent
		On-Air Spots	Top-Of-The-Hour Tags	
Year 11	\$70,385	\$174,555	\$82,210	\$327,150
Year 12	\$71,793	\$178,046	\$83,854	\$333,693
Year 13	\$73,229	\$181,607	\$85,531	\$340,367
Year 14	\$74,693	\$185,239	\$87,242	\$347,174
Year 15	\$76,187	\$188,944	\$88,987	\$354,118
Year 16	\$77,711	\$192,723	\$90,766	\$361,200
Year 17	\$79,265	\$196,577	\$92,582	\$368,424
Year 18	\$80,850	\$200,509	\$94,433	\$375,792
Year 19	\$82,467	\$204,519	\$96,322	\$383,308
Year 20	\$84,116	\$208,610	\$98,248	\$390,974
Year 21	\$85,798	\$212,782	\$100,213	\$398,793
Year 22	\$87,514	\$217,038	\$102,217	\$406,769
Year 23	\$89,264	\$221,379	\$104,262	\$414,905
Year 24	\$91,050	\$225,806	\$106,347	\$423,203
Year 25	\$92,871	\$230,322	\$108,474	\$431,667
Year 26	\$94,728	\$234,929	\$110,643	\$440,300

Year 27	\$96,623	\$239,627	\$112,856	\$449,106
Year 28	\$98,555	\$244,420	\$115,113	\$458,088
Year 29	\$100,526	\$249,308	\$117,415	\$467,249
Year 30	\$102,537	\$254,294	\$119,764	\$476,595

4.5 Additional Rent. If applicable, on or before the first day of each month during the Term, in addition to Cash Rent and In-Kind Rent, KEXP shall pay the City fifteen percent (15%) of Gross Rents received by KEXP in the prior month from the subleasing of the Premises, except for money or value in lieu of money KEXP receives from any entity that is exempt from income taxation under 26 U.S.C 501 (c)(3) ("Exempt Subtenant"). If KEXP receives any non-monetary consideration from any subtenant or licensee other than Exempt Subtenants, then the Director shall calculate the reasonable cash value of such consideration for purposes of calculating KEXP's gross receipts. "Gross Rents" shall not include amounts in the nature of direct reimbursables such as utilities or taxes or other charges intended to recover KEXP's tenant related expenditures. For the final month of the Lease Term, Additional Rent shall be due within thirty days of the termination or expiration of the Term.

4.6 Additional Charges. KEXP shall pay City monthly, within thirty (30) days of invoice, the following charges:

4.6.1 KEXP's pro rata share of the cost of all utilities serving the Premises that are not separately metered as part of the Initial Improvements.

4.6.2 If a new sprinkler system is not installed by KEXP, the pro rata share of the cost of monitoring, repairing and confidence testing the sprinkler system serving the Premises.

4.6.3 The pro rata share of the cost of monitoring, repairing and confidence testing the fire alarm system serving the Premises.

4.6.4 Solid waste collection and recycling as provided under Section 9.3 if KEXP chooses to retain Seattle Center for this service.

4.6.5 The cost of all maintenance or repair work for which KEXP is responsible but which the City performs at KEXP's request.

4.6.6 Any other charge KEXP is required to pay City under this Lease.

4.7 Calculation of Pro Rata Share; Audit. Allocation of the pro rata share of costs shall be consistent with the allocation methods used with other Seattle Center long-term tenants and shall generally be in the form illustrated in Exhibit 7. Upon reasonable notice, KEXP shall be allowed to inspect City's books of account related to the calculation of the

Additional Charges at City's office and to procure audits thereof by an auditor at KEXP's sole cost and expense.

5. Late Charge; Interest.

If KEXP fails to pay City when due any sum set forth in Section 4 above, such amount shall bear interest at the rate of 12% per annum from the date due until the date paid.

6. In-Kind Rent Application.

6.1 Definitions. As used in this Lease, the following terms relating to In-Kind Rent have the following meanings:

6.1.1 "Average Unit Rate" or "AUR" means the in-kind value of an On-Air Spot, as the value may vary depending upon the time of its broadcast, which value shall be adjusted annually based on the average value station-wide for such On-Air Spot over the immediately preceding calendar year.

6.1.2 "On-Air Spot" means 20 seconds of KEXP's broadcast time, as such standard duration may be adjusted station-wide by KEXP from time to time.

6.1.3 "Top-Of-The Hour Tag" means a statement such as "Live at Seattle Center" made on the air by KEXP between the hours of 6:00 am and midnight, which may be combined with other similar statements at the same time.

6.2 Calculation of In-Kind Value. The number of On-Air Spots and Top-Of-The-Hour Tags necessary to fulfill the annual In-Kind Rent obligation or the Option Fee shall be calculated based on KEXP's then current AUR, which shall be applied in the same manner and subject to the same limitations as any other client.

6.3 Programming. KEXP and City will meet annually, or more frequently upon mutual agreement, to discuss how the required number of annual On-Air Spots and Top-Of-The-Hour Tags will be programmed, including timing, placement and content. KEXP shall use best efforts to accommodate the City's preferences but KEXP shall be ultimately responsible for ensuring the precise manner (programming, timing, and placement) in which it satisfies its In-Kind Rent obligations. KEXP will produce the On-Air Spots and Top-Of-The-Hour Tags, and the production costs and value thereof shall be credited to KEXP as part of the In-Kind Rent obligation. Content of the spots and tags must be approved by KEXP and City and follow station guidelines.

6.4 Mutual Contacts for In-Kind Rent. The Director and KEXP shall each appoint a representative to act as the single point of contact for the coordination and delivery of the In-Kind Rent services.

6.5 Alternative In-Kind Rent. Upon KEXP and City's prior written agreement, KEXP may fulfill its In-Kind Rent obligations by substituting other products or services of equal value, including online display advertising, program sponsorship, or other sponsorships for events at Seattle Center.

7. Reports; Records and Audits, Annual Meetings.

7.1 Reports. In addition to Rent, KEXP shall provide the City with the following reports, certified by an authorized officer of KEXP.

7.1.1 Monthly Report of In-Kind Rent. On or before the last day of each month during the Lease Term, a monthly report for the preceding month of the On-Air Spots and Top-Of-The-Hour Tags or any other approved alternative in-kind services substituted for the In-Kind Rent.

7.1.2 Monthly Report of Gross Rents Received. If applicable, on or before the last day of each month during the Lease Term, a monthly report setting forth in reasonable detail (i) the amount of Gross Rents or value in lieu of rent received from any subleases or tenants for the preceding month; and (ii) a computation of Additional Rent due City based upon the prior month's rents. While money received from Exempt Subtenants is excluded from the calculation of Additional Rent, KEXP must include amounts received from Exempt Subtenants in the monthly report.

7.1.3 Annual Report of Public Benefits. On or before June 1 of each year during the Lease Term, KEXP shall submit to the City a written statement, certified by an authorized officer of KEXP and in a form acceptable to the Director, setting forth in reasonable detail a description of public benefits, including estimated value when applicable, provided during the preceding Lease Year, as required by Section 19.

7.2 Reports and Audits. KEXP shall keep true, full, and accurate books of account setting forth KEXP's subleases and tenants and all accounts affecting calculation of Additional Rent and In-Kind Rent. Upon reasonable prior written notice, the City shall be allowed to inspect KEXP's books of account related to the calculation of Additional Rent and In-Kind Rent at KEXP'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 KEXP if any audit reveals any over- or underpayment of amounts due from KEXP under this Agreement. Any overpayment shall be a credit against any fees and charges subsequently due or shall be refunded to KEXP; 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 an audit discloses any willful or intentional effort to understate KEXP's subleasing revenues, such amount will accrue the interest charge under Section 5 from the date when payment was due, and KEXP shall reimburse the City the cost of the audit. KEXP shall retain all yearly books of accounting and any other information which will affect the determination of Sublease Rents

for a period of six (6) years from the end of each calendar year under the Term. KEXP's obligations under this paragraph shall survive expiration or termination of this Lease.

7.3 Annual Meetings. The Parties will meet annually in September of each year during the Lease Term for five purposes: (1) to discuss the proposed public benefits and community partnerships to be provided by KEXP in the upcoming year pursuant to Section 7.1.3; (2) to review and discuss the proposed programming and marketing plan for the coming year; (3) to review the Parties' maintenance activities from the prior year and any anticipated needs for the coming year; (4) to identify and agree upon scheduling and placement of On-Air Spots and Top-Of-The-Hour Tags for In-Kind Rent for the coming year in accordance with Section 6.3 above; and (5) to discuss any other item identified by one of the Parties.

8. **KEXP's Operations.**

8.1 Use of Premises. KEXP shall use the Premises only for the Permitted Use. As City's willingness to enter into this Lease with KEXP was predicated, in part, on the nature of KEXP's business as a non-profit radio station, and the compatibility of such business with the use of the remainder of Seattle Center, KEXP shall not use or permit the use of the Premises, for any other business, or purpose, or under any other name, without City's prior written consent. KEXP shall promptly comply, at its sole cost and expense, with such generally applicable reasonable rules and regulations relating to the use of the Premises and other areas of Seattle Center as the City may establish from time to time. KEXP 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. KEXP shall not permit any accumulation of trash on or about the Premises. KEXP shall not create or contribute to the creation of a nuisance in either the Premises or on Seattle Center grounds and KEXP shall not engage in or permit any action that will disturb the quiet enjoyment of any other Seattle Center tenant or occupant; provided, however, that musical or other performances which take place within the Premises or on the New Stage shall not be deemed a nuisance so long as the use is in compliance with applicable laws and Seattle Center rules and regulations, including without limitation any ordinance respecting noise.

8.2 Compliance with Laws.

8.2.1 Unlawful Use. KEXP 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. KEXP shall promptly comply, at its sole cost and expense, with all laws, ordinances, including but not limited to noise ordinances, and regulations now in force or hereafter adopted relating to or affecting the condition, use or occupancy of the Premises.

8.2.2 Nondiscrimination. Without limiting the generality of the foregoing, KEXP 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 Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code ("SMC") as they may be amended from time to time, and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

8.2.3 Americans with Disabilities Act. Without limiting the generality of the foregoing, in any construction or alteration of the Premises, KEXP shall comply with all applicable laws and regulations, including but not limited to the Americans with Disabilities Act, including the design specifications under both Titles II and III.

8.3 Liens. Subject to Section 20, KEXP 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 Liens upon the Premises 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, KEXP shall pay off in full or cause the same to be discharged of record within thirty (30) days of notification thereof. KEXP 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 the Lien, KEXP discharges said Lien of record or records a bond which complies with the requirements of RCW 60.04.161 eliminating the Lien as an encumbrance against the Premises. If KEXP shall fail to so remove any such Lien, City may take such action as City shall reasonably determine to remove such Lien. KEXP shall pay as Additional Charges all costs and expenses incurred by City including, without limitation, amounts paid in good faith settlement of such Lien and attorneys' fees and costs, together with interest thereon.

8.4 Programming of the Premises. Subject to Section 2.7, KEXP shall have the unrestricted right to program the Premises for regular and special events that are compatible with Seattle Center's mission and programs, including major festivals; provided that in no event shall KEXP be restricted by the City with respect to KEXP's broadcast or on-line content.

8.5 Exclusivity. KEXP shall not violate or interfere with any exclusivity right granted to another Seattle Center tenant as of the Effective Date. Existing exclusivity rights at Seattle Center are described on Exhibit 4. Furthermore, KEXP shall have the exclusive right to operate a radio station broadcast facility at Seattle Center. City shall not enter into a lease, sublease, lease amendment or assignment, or other agreement that grants any other party the right to operate a radio station broadcast facility on the Seattle Center campus. KEXP's exclusive rights set forth in this Section 8.5 shall automatically terminate at the end of the Initial Term of the Lease, provided, however that the Parties shall engage in good faith discussions for an extension of such exclusive rights beginning in the sixth year of the Initial Term, provided that the Director in his sole discretion shall make the final determination

whether to extend KEXP's exclusive rights with respect to any Extended Term. KEXP's Rent during the Extended Term does not reflect a continuation of exclusive rights, and as a result, KEXP shall not be entitled to any reduction of Rent if the exclusivity is not granted to KEXP in any Extended Term. The granting of this exclusivity right does not apply to or impact the ability of radio stations to broadcast events at Seattle Center.

8.6 Hazardous Substances.

8.6.1 General Requirement Regarding Hazardous Substances. KEXP shall not, without City's prior written consent, keep on or about the Premises any Hazardous Substance. As used in this Lease, "Hazardous Substance" means any substance now or hereafter designated as, or containing any component now or hereafter designated as, hazardous, or dangerous, or toxic, or harmful, or subject to regulation under any federal, state or local law, regulation or ordinance, except customary office, kitchen, cleaning and similar supplies in normal quantities handled in compliance with applicable laws.

8.6.2 Hazardous Substances with City Consent. With respect to any Hazardous Substance stored with City's consent, KEXP shall promptly, timely and completely comply with the following:

(i) all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment, and disposal of Hazardous Substances, including requirements for reporting and record keeping;

(ii) submit to City true and correct copies of all reports, manifests and identification numbers at the same time as they are submitted to the appropriate governmental authorities; and

(iii) within five (5) days after City's request, provide evidence satisfactory to City of KEXP's compliance with all applicable governmental rules, regulations and requirements.

8.6.3 Remedies. City reserves the right to inspect the Premises and to otherwise monitor KEXP's compliance with this Section 8.6. If City discovers any violation by KEXP of the requirements of this Section 8.6, any and all costs incurred by City, including costs associated with City's inspections of the Premises and City's monitoring of KEXP's compliance, including City's attorneys' fees and costs, shall be Additional Charges and shall be due and payable to City upon invoice.

8.6.4 KEXP Indemnity Obligation. KEXP 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 KEXP's use, disposal, transportation, generation, or sale of Hazardous Substances in or about the Premises. KEXP 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 KEXP's use, disposal, transportation, generation or sale of Hazardous Substances on or about the Premises. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

8.6.5 City Indemnity Obligation. City shall be fully and completely liable to KEXP 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 use, disposal, transportation, generation, or sale of Hazardous Substances by City, its employees, or its contractors in or about the Building. City shall indemnify, defend and hold KEXP harmless from any and all of the costs, fees, penalties, charges and expenses assessed against, or imposed, upon KEXP (as well as KEXP's attorneys' fees and costs) as a result of the use, disposal, transportation, generation or sale of Hazardous Substances by City, its employees, or its contractors in or about the Building. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

9. **Utilities, Parking and Security.**

9.1 City Responsibilities. City shall make available to the Premises heating, ventilation and air conditioning ("HVAC"), sprinkler and fire alarm system monitoring and maintenance, water, sanitary sewer, and electricity. If necessary to implement the Initial Improvements, KEXP may remove the solar panels and dispose of all or portions of them at KEXP's cost, unless the City elects to take possession of all or portions of the solar panels, in which case the City will be responsible for reinstalling or storing the panels, or any portion thereof, after KEXP's removal.

9.2 KEXP Responsibility. Throughout the Term, KEXP shall be responsible for installing, augmenting, upgrading or relocating any utility systems as necessary for KEXP to conduct its operations on the Premises. KEXP shall procure and pay for all utilities serving the Premises, including electricity, water, natural gas, telephone, security alarm, garbage services, HVAC, and, subject to the provisions of Section 4.6.2 and Section 4.6.3 hereof, the sprinkler and fire alarm systems. As part of the Initial Improvements, KEXP shall ensure that the Premises continue to be connected to the Seattle Center HVAC and fire alarm systems. To the extent possible and as part of the Initial Improvements, KEXP shall cause the utilities serving the Premises to be separately metered. KEXP shall use the Seattle Center campus telecommunications provider for telephone and data services if KEXP utilizes the Seattle Center's telecommunication infrastructure. KEXP shall pay its pro rata share of any utility services not separately metered as an Additional Charge.

9.3 Refuse Collection. KEXP shall provide at its own cost and expense all necessary housekeeping and janitorial services for the Premises, including KEXP events at the New Stage. City shall be responsible for janitorial services and refuse removal from the New Stage

portion of the Premises for all events other than KEXP events. KEXP shall arrange for private garbage and recycling services or may request that Seattle Center provide such services, in which case the Parties will negotiate a mutually agreed upon fee and KEXP shall pay City for the services as an Additional Charge. KEXP shall collect, sort, and separate all solid waste products on the Premises into such categories as may be required by law or Seattle Center rule. KEXP shall recycle all products that are locally accepted for recycling. If KEXP elects to use Seattle Center for solid waste removal services, Seattle Center shall provide and remove separate recycling receptacles for this purpose. The City reserves the right to refuse to collect or accept from KEXP any waste product that is not sorted and separated as required by law, ordinance, rule, or regulation, and to require KEXP to arrange for the collection of the same at KEXP's sole cost and expense. KEXP 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.

9.4 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; provided, however, that the Seattle Center shall be liable for any loss, injury, or damage to person or property caused by its gross negligence or intentional misconduct. No temporary interruption or failure of services incident to the making of repairs, alterations, improvements, or due to accident, strike, or other conditions or events shall be deemed an eviction of KEXP or shall relieve KEXP from any of its obligations hereunder or give KEXP a right of action against City for damages. KEXP acknowledges that there may be planned utility outages affecting the Premises and that such outages may interfere, from time to time, with KEXP's use of the Premises. Seattle Center shall provide KEXP with not less than 48 hours' prior written notice of any Seattle Center-planned utility outage in the Premises of which Seattle Center has knowledge. The City has no obligation to provide emergency or backup power to KEXP. Other than the City's responsibility under 11.2.1, 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 KEXP.

9.5 Parking; Loading and Unloading. City will provide KEXP with five (5) Seattle Center parking passes for Seattle Center parking facilities at no charge to KEXP; however, possession of a parking pass does not guarantee a parking space will be available on any given day. Additionally, Seattle Center gives KEXP permission to act as Seattle Center's designee for reserving right-of-way curbspace for loading, unloading and staging of events at the Premises under the terms of an interdepartmental Memorandum of Agreement for Event Curb-side Management ("MOA") between Seattle Center and the Seattle Department of Transportation attached as Exhibit 5, as amended from time-to-time. KEXP's permission to act as Seattle Center's designee for purposes of reserving right-of-way space is limited to making "Type 1

Reservations” and “Type 2 Reservations” only (as described in the MOA), and is limited to Republican Street between 1st Avenue North and Warren Avenue North. KEXP shall at all times comply with all provisions of the MOA, including but not limited to the payment of any applicable fees. If KEXP fails to comply with any provision of the MOA, upon notice from the City KEXP shall promptly cure the default. KEXP’s failure to remedy the default within 24 hours of receipt of notice from the City shall be grounds for the immediate revocation of KEXP’s permission to act as Seattle Center’s designee for purposes of reserving right-of-way space. In addition, if KEXP is given four (4) written notices of noncompliance with the MOA within any twelve (12) month period, regardless of whether such occurrences are remedied, the City may revoke KEXP’s permission to act as Seattle Center’s designee. Seattle Center will provide KEXP with reasonable notice if the MOA is terminated or amended in a manner that materially impacts KEXP. For KEXP events with load/unload requirements that KEXP cannot address through the reservation of right-of-way curbspace described in this section, at KEXP’s request, the Director will work cooperatively with KEXP to facilitate the load/unload requirements for those events in a manner that is consistent with the needs of other Seattle Center users.

9.6 Security. At its sole expense, KEXP shall provide all security services in the interior areas of the Premises. The City shall provide general security to the Seattle Center grounds, including exterior areas of the Premises to the same extent as provided to other Seattle Center tenants. When KEXP holds events or presents concerts at the New Stage or other Seattle Center facilities, security will be as required by the Seattle Center event production staff and subject to the City’s relevant labor agreements for security.

10. Licenses and Taxes.

10.1 Payment of Fees and Taxes. Without any deduction or offset whatsoever, KEXP shall be liable for, and shall pay prior to delinquency, all taxes, including leasehold excise tax, if any, license and excise fees and occupation taxes, applicable to the business conducted on the Premises and KEXP’s leasehold interest in the Premises. KEXP shall pay all personal property taxes and other impositions levied with respect to all personal property located at the Premises.

10.2 Contests. KEXP 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 KEXP of its covenant to pay any such taxes. City shall not be subjected to any liability, nor shall City be responsible for the payment of any costs or expenses in connection with any such proceeding brought by KEXP, and KEXP 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.

11. Initial Improvements; Subsequent Alterations; Ownership.

11.1 KEXP Initial Improvements. The parties acknowledge and agree that the renovation of the Premises and construction of the New Stage ("Initial Improvements") is a fundamental purpose of this Lease. KEXP will be responsible for all costs associated with the renovation of the Premises and construction of the New Stage. The Initial Improvements are expected to require a significant capital investment by KEXP. The Initial Improvements, which are shown conceptually in Exhibit 3, will at a minimum include: 1) construction of the New Stage and landscape and hardscape improvements to adjacent areas; 2) a new roof; 3) a new grand entrance and signage; 4) modifications and upgrades to the building envelope including added storefront glazing to a large portion of the building, new exterior doors, added windows, and new exterior paint; 5) structural improvements as needed to reinforce the existing structure to support the interior tenant improvements and as needed to support additional roof top loads; 6) asbestos removal; 7) new bathrooms; 8) building system improvements including electrical system upgrades and metering, heating, venting, and air conditioning (HVAC) system upgrades and metering, water distribution extensions, plumbing revisions and upgrades, fire sprinkler and alarm system upgrades and low voltage system upgrades; 9) tenant improvements including the addition of office and conference spaces, power, data and fiber installations, sound recording and technical spaces, new lighting and lighting controls, a publicly accessible lobby and interior performance spaces, and new interior finishes; and 10) the addition of office equipment, radio and production equipment, signage and a digital audio archive. Seattle Center will designate a person to coordinate with KEXP regarding design and construction at Seattle Center (the "Project Coordinator") and KEXP will reimburse Seattle Center for the Project Coordinator costs up to a maximum of \$41,500. Prior to commencing construction, the City and KEXP will execute a separate construction agreement that details the temporary construction areas, agreed upon timelines, and additional terms and conditions applicable to construction at Seattle Center, which will include, but not be limited to, the following requirements: (a) KEXP shall maintain a builder's risk insurance policy; (b) KEXP shall 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, KEXP shall provide City with final 'as-built' drawings of the Project; and (d) KEXP shall defend, indemnify and hold City harmless from any and all claims, damages and liabilities, including any required remediation of Hazardous Materials, arising from KEXP's construction activities and the construction activities of its contractors, agents, employees and invitees. In keeping with the City's goals for energy efficiency and reducing greenhouse gas emissions, and with the commitment of environmental sustainability in the Seattle Center Century 21 Master Plan, KEXP will consult with Seattle Center to assess opportunities for incorporating sustainable building features in the Initial Improvements and subsequent renovations.

11.2. City Improvements. At the time of the Commencement Date and conditioned upon a valid appropriation, the City will invest up to \$250,000 in the Premises for the purposes described in subsections 11.2.1 and 11.2.2 below (collectively, the "City Improvements"). If KEXP does not exercise an Option to extend the Commencement Date in accordance with Section 3.3 above, then the Director shall begin the appropriation process for payment for the City Improvements in order that the City Improvements may be completed in

a manner reasonably acceptable to the City and KEXP based upon the timeline for completion of the Initial Improvements as set forth by KEXP's contractor at that time.

11.2.1 Acquisition and installation of an emergency generator, transfer switch, and generator fuel tank in the Premises, or elsewhere at the Seattle Center if approved by the Director pursuant to Section 11.3, to support KEXP's operations and for the exclusive use of KEXP, including connection with the work spaces specified in Section 19.1.7 hereof.

11.2.2 City's Department of Information Technology shall act in its role as lead agency managing fiber shared with the University of Washington ("UW") to ensure that KEXP has the following fiber optic cable ("Fiber") connections utilizing UW owned Fiber: (a) one pair of dark Fiber strands from the Premises to the City's transmitter facility at 18th and Madison and (b) two pairs of dark Fiber strands from the Premises to the UW. If during the Term, UW terminates KEXP's rights to use UW-owned Fiber, the City will work with KEXP to achieve the same operational functions using City-owned Fiber, subject to City ordinances and fiber sharing agreements and subject to any applicable fees charged by Seattle City Light for use of its conduit and associated maintenance fees.

11.2.3 City will permit connection of KEXP's existing radio transmitter facility at 18th Avenue and East Madison Street to the City owned and operated backup generator at 18th Avenue and East Madison Street but only to the extent that such connection is made via the existing second transfer switch owned by KUOW.

11.3 Director Approval of Initial Improvements Design and Construction. The design of the Initial Improvements shall be consistent with the Century 21 Design Guidelines and shall be subject to the approval of the Director before KEXP commences construction of the Initial Improvements. The Director shall review initial design documents within (20) twenty working days of document receipt. Subsequent design reviews will be completed as determined in the construction agreement. The project shall also be subject to all regular City permitting requirements, and may be subject to review by the Seattle Design Commission. The Director shall support KEXP's application to the Seattle Design Commission so long as the Director has approved the initial design documents for the project. As part of the project, KEXP shall include Seattle Center project management involvement and liaison. KEXP architects and contractors shall comply with the Seattle Center Technical Construction Standards, as they exist at the time of design start-up.

11.4 Environmental Review and Permits. The City shall be the lead agency for compliance with the State Environmental Policy Act for purposes of the Lease. KEXP shall be responsible for obtaining all permits necessary for construction, and for completing any environmental review or documentation required relating to construction.

11.5 Project Management and Coordination. KEXP shall manage the Initial Improvements renovation project using an experienced project manager or firm serving as the KEXP representative regarding design and construction (the "Project Manager"). KEXP will notify the City upon KEXP's selection of the Project Manager, and the City shall have the right to approve or reject the Project Manager based solely on the experience and qualifications of the Project Manager on comparable projects. City shall assign a Seattle Center Project Coordinator, whose responsibility shall be to facilitate all Seattle Center project approvals, provide coordination of the project with Seattle Center needs during the course of construction, and represent Seattle Center on all issues affecting Seattle Center operations and costs.

11.6 Subsequent Alterations. After the Initial Improvements, KEXP shall not make any material alterations, additions or improvements in or to the Premises, including any additions or alterations to utility systems, without first submitting to the Director professionally prepared plans and specifications for such work and obtaining the Director's prior written approval, which may be granted, withheld, or conditioned in the Director's discretion.

11.7 Ownership of Initial Improvements. KEXP shall retain ownership of all Initial Improvements to the Premises. At its option, KEXP may elect to include the New Stage in the Premises or transfer ownership of the New Stage to the City upon completion of the Initial Improvements. Upon the expiration or termination of this Lease, KEXP shall surrender the Premises and all improvements, including the New Stage if retained by KEXP, to City in good repair and in a clean and neat condition, reasonable wear and tear excluded. Prior to such delivery, KEXP shall remove its personal property, fixtures and equipment, including radio equipment and digital audio archive equipment, and shall repair any damage resulting from the removal. All remaining improvements installed by KEXP shall automatically become the property of the City without need for reimbursement to KEXP.

12. **Maintenance and Operations.**

12.1 City's Maintenance Responsibilities. At its expense, City shall maintain the Building, the portions of the Premises described below, and the common areas of Seattle Center in good order and to a standard typical for Seattle Center facilities. City shall maintain and repair the following areas of the Premises:

12.1.1 Roof and exterior walls.

12.1.2 The existing potable water, wastewater system and sewer pipes within the Premises, except for any system which is altered, installed, or replaced by KEXP as part of the Initial Improvements.

12.1.3 Exterior potable water, wastewater and sewer pipes connected to the Premises.

12.1.4 Existing exterior doors and locks not installed or replaced by KEXP.

12.1.5 The existing electric al system, including the main distribution service panel and all sub-panels serving the Premises, unless KEXP undertakes any modifications, alterations or augmentation of the existing system as part of the Initial Improvements, in which case KEXP shall maintain the system as required under Subsection 12.2.

12.1.6 Exist ing HVAC system, including roof top units, interior heat exchange units, duct work, and all component parts.

12.1.7 The Fire Alarm System.

12.1.8 Unless KEXP installs a new sprinkler system as part of the Initial Improvements, City shall maintain the existing system subject to KEXP's obligation to reimburse the City for certain related charges under Section 4.6.2.

12.1.9 The New Stage and the ground on which it rests, but excluding KEXP's sound and stage equipment and housekeeping and janitorial after KEXP's events.

12.1.10 Landscape and outdoor periphery.

In undertaking maintenance, City shall make a good faith effort to not interfere with KEXP's business on the Premises. KEXP waives all claims for damages, including for any loss of business, resulting from City maintenance, cleaning, and repair work, except to the extent of City's gross negligence or willful misconduct. There shall be no abatement or reduction of Rent arising because of City's making, or failing to make, any repairs, alterations, or improvements, except to the extent caused by City's gross negligence or willful misconduct. City shall not be required to maintain or repair any damage caused by KEXP or its contractors, guests, invitees, licensees or subtenants.

12.2 KEXP Responsibilities. At its expense, KEXP shall maintain the remainder of the Premises, including KEXP's alterations, improvement, additions, and personal property, to a standard comparable to at least that of a Class B office building, which shall include:

12.2.1 Cleaning the exterior and interior glass in the Premises windows and doors.

12.2.2 Regularly inspecting all water, wastewater, and sewage pipes that are within the Premises if installed, altered, or replaced by KEXP, and maintaining and repairing as necessary all plumbing fixtures within the Premises.

12.2.3 Maintaining the interior doors and locks, and any exterior doors and exteriors locks installed by KEXP.

12.2.4 Maintaining any portable New Stage sound and stage equipment owned by KEXP, and maintaining any other systems or equipment installed by KEXP that is unique to KEXP's use of the Premises.

12.2.5 Maintaining any other utility system, including but not limited to the electrical system, or component that is altered, augmented, installed or modified by KEXP, whether as part of the Initial Improvements or subsequently, to the extent of such alterations, augmentations, new installations, or modifications.

KEXP shall not be required to maintain, repair or restore any damage caused by City, its employees, contractors, or tenants. City waives all claims for damages resulting from KEXP maintenance or repair work, except to the extent of KEXP's negligence or willful misconduct.

12.3 City Maintenance Allowance. Notwithstanding the provisions of Section 12.2, City shall provide KEXP with an annual maintenance allowance as follows:

12.3.1 City shall provide up to \$5,000 worth of Seattle Center staff time for annual maintenance of a new emergency generator system at the Premises. If KEXP elects to retain a contractor to perform generator maintenance services, it shall be at KEXP's sole expense. City will provide KEXP with an accounting of its use of the allowance on a monthly basis, or upon such other schedule mutually agreed upon.

12.3.2 City shall provide KEXP with an annual allowance of up to \$3,000 worth of Seattle Center staff time for routine repair and maintenance of any mechanical, plumbing, wastewater, electrical, or similar system serving the Premises. City will provide KEXP with an accounting of its use of such allowance on a monthly basis, or upon such other schedule mutually agreed upon.

12.3.3 The maintenance allowance provided to KEXP shall not accumulate over the Term. The allowance is provided annually, and KEXP shall not be entitled to any credit or other reimbursement if the allowance is not used or is only partially used in any calendar year under the Term.

12.4 KEXP's Maintenance and Repairs. If KEXP fails to repair and maintain the Premises as required by this Section 12, then the City shall provide KEXP with written notice specifying the nature of the failure. If KEXP shall fail to repair and maintain to the Director's reasonable satisfaction within thirty days' of the date of written notice to KEXP, then at its option the City may, but is not required to, undertake such repair or maintenance, and shall invoice KEXP for the entire actual and reasonable cost, including associated administrative fees. KEXP shall promptly pay the invoiced amount as an Additional Charge. City shall have the right to enter the Premises for such purposes. However, if more than thirty (30) days

is reasonably required to complete the repair or maintenance, City will have no self-help right under this Section if KEXP commences the repair or maintenance within 30 days of written notice and diligently pursues it to completion.

12.5 City's Maintenance and Repairs. If City fails to perform its repair and maintain obligations as required by this Section 12, then KEXP shall provide City with written notice specifying the nature of the failure. If within thirty days of KEXP's notice City shall fail to either 1) repair and maintain to KEXP's reasonable satisfaction or 2) provide KEXP with a written explanation of a good faith reasonable basis for rejecting the repair request, then at its option KEXP may, but is not required to, undertake such repair or maintenance, and shall either invoice City for the entire actual and reasonable cost, including associated administrative fees, or deduct such costs and fees from the next payment of Cash Rent that is due. If KEXP invoices City, City shall promptly pay the invoiced amount to KEXP. However, if more than thirty (30) days is reasonably required to complete the repair or maintenance, KEXP will have no self-help right under this Section if City commences the repair or maintenance within 30 days of written notice and diligently pursues it to completion. Additionally, if the City has provided KEXP with a written explanation rejecting the repair or maintenance requested, the City shall have no obligation to reimburse KEXP for self help and the Parties shall make best efforts to resolve the dispute under Section 30.

12.6 Major Repairs. The maintenance obligations of both City and KEXP include the obligation to complete routine repairs and Major Repairs to the extent necessary to keep the Premises and common areas in a good condition as required under this Lease. Notwithstanding the foregoing, if any Major Repair or replacement of any component of a utility system (for example, water, sewer, electrical) that is located at the Premises is necessary during the Term, the City and KEXP shall equally share the cost of the repair or replacement of such utility system. As used in this Section, a "Major Repair" means any single repair or replacement project which is estimated to cost more than \$5,000, including labor and materials. Notwithstanding the forgoing, the City shall have no responsibility for the cost of a Major Repair to a system upgraded or installed by KEXP if the repair is required as a result of faulty installation or design by KEXP over which the City had no control. KEXP will not be responsible for any portion of the cost for any Major Repair of any component of a Seattle Center utility system that is not located on the Premises unless the need for repair can be directly and reasonably traced to KEXP's use of the Premises, in which case KEXP will be responsible for its equitable share of the repair or replacement.

13. Installation of Artwork.

13.1 Prohibition against Installation or Integration of Works of Visual Art on Premises. KEXP shall not permit the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, if the removal of such artwork is reasonably likely to result in its distortion, mutilation, modification, or destruction, unless KEXP delivers to City an executed waiver of the creator's right of integrity regarding such art work for the benefit of City and its

successors and assigns, in a form that satisfies both City and the requirements of 17 U.S.C. §106A(e), as the same now exists or is hereafter modified.

13.2 KEXP's Indemnification of City against Liability under Visual Artists Rights Act of 1990. Without limiting the generality of Section 17, KEXP 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 work of visual art on or into the Premises; or (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of Section 13.1 of this Lease; or (d) any violation by KEXP or any of its officers, employees or agents of the Visual Artists Rights Act of 1990, as now existing or hereafter amended. 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.

14. **Continuous Operation.**

KEXP shall not abandon the Premises after the Commencement Date. Except for the period necessary to complete any approved remodeling, improvements, or temporary closures for repair or maintenance, and subject to force majeure or periods of damage or destruction, KEXP shall keep the Premises open and use them to transact business with the public. KEXP shall immediately close if the Director determines there is an emergency endangering the health or safety of the general public or any Seattle Center staff or occupants.

15. **Joint Programming.**

15.1 Busking Program. Subject to the Director's approval and the Seattle Center Campus rules, KEXP may produce and co-brand with Seattle Center a free busking program in the common areas of Seattle Center designed to create incidental encounters of art and entertainment that enhance the atmosphere of the entire campus.

15.2 Annual Programming Plan. KEXP and Seattle Center Productions will work cooperatively to develop and implement an annual joint programming plan on and around the Seattle Center and the Premises designed to help both Seattle Center and KEXP to enhance their mission and vision. Proposed programming and Seattle Center's portion of the funding, if any, will be subject to the Director's approval and City ordinances applicable to co-promotion.

16. **Surrender of Premises.**

16.1 General Matters. At the expiration or sooner termination of the Lease Term, KEXP shall surrender the Premises to City in good repair and in a clean and neat condition.

KEXP shall remove its moveable trade fixtures and appliances and equipment as required under Section 11.5, and shall repair any damage resulting from the removal. Without limiting the generality of Section 17.1, KEXP shall indemnify City for all damages and losses suffered as a result of KEXP's failure to redeliver the Premises on a timely basis in the condition required herein. KEXP's obligations under this Section 16 shall survive the expiration or termination of this Lease.

16.2 Cable and Wiring. Unless otherwise excused by the Director, on or before the Expiration Date or earlier termination of this Lease, KEXP shall remove all voice and data communication and transmission cables and wiring installed by or for KEXP to serve any telephone, computer or other equipment located in the Premises including all of the same located within the interior and exterior walls, through or above the ceiling, through or below the floor, or located in any building equipment room, vertical or horizontal riser, raceway, conduit, channel, or opening connecting to the portion of KEXP's Improvements. KEXP shall leave the mud rings, faceplates and floor boxes in place.

16.3 Abandoned Property. The City may, at its election, retain or dispose of in any manner any of KEXP's moveable trade fixtures, appliances, equipment, capital improvements not specifically allowed to remain, artwork, and other personal property (collectively, "Personal Property") that KEXP does not remove from the Premises at the expiration of the Term or within twenty (20) days after expiration or termination of the Term. The Director will give written notice to KEXP specifying the Personal Property to be removed and requesting removal, and if KEXP does not remove the Personal Property within ten (10) days from the date of notice, the Personal Property will be deemed abandoned by KEXP 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. KEXP waives all claims against the City for any damage to KEXP resulting from retention or disposition of any Personal Property not removed by KEXP as required under this Section 16. KEXP shall be liable to Seattle Center for Seattle Center's reasonable costs for storing, removing and disposing of any abandoned Personal Property.

17. **Indemnification; Release.**

17.1 KEXP's Indemnification. Except as otherwise provided in this Section and to the fullest extent allowed by law, KEXP shall defend (using legal counsel reasonably acceptable to City), indemnify, 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 (i) the occupation, use or improvement of the Premises by KEXP or any of KEXP's officers, employees, subtenants, licensees, or agents, or (ii) KEXP's breach of its obligations hereunder. Notwithstanding the foregoing, KEXP's defense and indemnity obligations shall

not include any injury to person or loss or damage to property arising from the use or occupation of the New Stage by parties other than KEXP or its licensees, unless KEXP's actions or those of its officers, employees, subtenants, licensees, or agents caused or contributed to the alleged harm. KEXP agrees that the foregoing indemnity specifically covers actions brought by its own employees, and KEXP hereby waives immunity under Washington's Industrial Insurance Act, RCW Title 51; but only as to the City and to the extent necessary to provide City with a full and complete indemnity required under this Section. This indemnity shall survive termination or expiration of this Lease. KEXP shall promptly notify City of casualties or accidents occurring in or about the Premises.

17.2 City's Indemnification. Except as otherwise provided in this Section and to the fullest extent allowed by law, City shall defend (using legal counsel reasonably acceptable to KEXP), indemnify, and save KEXP, its officers, agents, employees and contractors harmless from all claims, suits, losses, damages, fines, penalties, liabilities and expenses (including KEXP'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 (i) City's negligence, or the negligence of any of City's employees, subtenants, licensees, or agents or (ii) City's breach of its obligations hereunder. City agrees that the foregoing indemnity specifically covers actions brought by its own employees. This indemnity shall survive termination or expiration of this Lease. City shall promptly notify KEXP of casualties or accidents occurring in or about the Premises.

CITY AND KEXP ACKNOWLEDGE THAT THE INDEMNIFICATION OBLIGATIONS IN SECTIONS 17.1 AND 17.2 OF THIS LEASE WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

17.3 KEXP's Release of Claims. The placement and storage of all artwork, personal property, trade fixtures, capital improvements and inventory ("Personal Property") in the Premises shall be the responsibility, and at the sole risk, of KEXP. KEXP hereby releases the City from any and all claims arising from any loss of or damage to Personal Property at the Premises, except to the extent arising from the City's gross negligence or willful misconduct.

18. Insurance.

18.1 General Insurance Requirement. Throughout the Lease Term, the Parties shall maintain such insurance coverage as is specified in Exhibit 6 and shall otherwise comply with the terms and conditions for insurance contained therein.

18.2 Waivers of Subrogation. City and KEXP do each hereby release and relieve the other from responsibility for, and waive their 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 of either of them located anywhere on or under the Premises arising out

of or incident to the occurrence of any of the perils which are covered by any insurance policy now or from time to time carried by the parties hereto. This waiver is intended to include claims or losses falling within deductible amounts, unless the party against whom recovery is sought caused or contributed to the loss, in which case the waiver shall not apply to the deductible amount. Each party shall cause its insurance carriers to consent to such waiver and to waive all rights of subrogation against the other party.

19. Public Benefits and Community Partnerships.

19.1 Public Benefits Provided by KEXP. KEXP will provide the City and its residents with the public benefits described below throughout the Lease Term. KEXP shall annually report on the public benefits as required under Subsection 7.1.

19.1.1 Initial Improvements. Renovating and invigorating the Premises at the northwest corner of the Seattle Center campus through an improved connection to the Lower Queen Anne community, as conceptually depicted in Exhibit 3.

19.1.2 Homepage Links. KEXP shall provide Northwest content links, including a link to KEXP and its free services, for the Seattle Center homepage, wireless public access page, and other agencies as requested.

19.1.3 Festival Use of New Stage. Throughout the Term and at no cost, the City shall have priority use of the New Stage for the number of days associated with the Northwest Folklife Festival (7 days), the Bite of Seattle (5 days), Giant Magnet (9 days) and the Bumbershoot Festival (8 days) or successor events. Additionally, City may use the New Stage for other events without additional charge, subject to the scheduling limitations in Section 2.7. The Director will provide KEXP with written notice each year during the annual meeting described in Section 7.3 of the festival calendar dates and of any changes in the types and duration of the forgoing events. If such festivals elect not to use the New Stage during such festivals, then the City shall not object to KEXP using the New Stage for its programs, provided KEXP obtains written approval from the festival.

19.1.4 Power Outage Support Space. In the event of a power outage, KEXP will provide up to ten work spaces for City staff and may serve as an emergency command center.

19.1.5 Additional Benefits. During each year throughout the Term, KEXP shall provide at least one of the following benefits:

a. Incidental Performance Art Experiences. KEXP intends to play a curatorial role in offering Seattle Center visitors the delight found in happening upon incidental performance art experiences throughout the campus.

b. Free Public Access. KEXP intends to expand its current services and add innovative new community programs including free public access to live and recorded music, free tours of its broadcast studios and other educational opportunities.

c. Community Educational Resources. KEXP intends to expand its ability to provide educational resources for the community by incorporating instructional space and work space for students, volunteers and musicians.

d. Director-approved Benefits. Such alternative or additional program proposed by KEXP at the annual meeting and approved by the Director.

19.2. KEXP Commitment to Partnership-Building. Throughout the Term, KEXP shall develop and maintain partnerships with at least two of the following organizations and groups or their successors:

19.2.1 Seattle Public Schools. Seattle Public Schools, to create an internship program and other ways for students to learn more about music.

19.2.2 Seattle Public Library. The Seattle Public Library, to make more music content more readily accessible to Library patrons.

19.2.3 Seattle Channel. Seattle Channel, to collaborate on creating and distributing music programming.

19.2.4 Vera Project. To connect young people and emerging talent to KEXP's producers, web designers and DJs, and to collaborate on live performances.

19.2.5 University of Washington. The University of Washington, for a formal internship program where undergraduate and graduate students can gain experience in the music and arts community and industry such as music curation, web development and design, intellectual property law, and marketing.

19.2.6 EMP. Through a partnership that brings together KEXP curators to work with EMP curators, collaborating on projects and exhibits.

19.2.7 Seattle City of Music Commission. By inviting the Seattle: City of Music Commission to establish KEXP's Premises as its home through the provision of free meetings rooms and A/V support (upon availability and with KEXP approval), using the Premises as a place where Seattle's music story can be showcased.

19.2.8 Director-approved Partnerships. Such alternative or additional partnership proposed by KEXP at the annual meeting and approved by the Director.

20. Assignment and Sublease.

20.1 Generally. KEXP shall not assign or encumber the whole or any part of the Premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise without the prior written consent of the Director, which consent may be withheld, delayed or conditioned in the Director's sole discretion. KEXP may sublease or license portions of the Premises for uses that are compatible with Seattle Center's over-all mission, subject to the Director's prior written approval, which shall not be unreasonably withheld. The granting of consent to a given sublease, assignment, or transfer shall not constitute a waiver of the consent requirement as to future subleases, assignments, or transfers. Any assignment, license, mortgage or sublease without the Director's prior written consent in accordance with this Section 20.1 shall be void. No assignment or sublease shall release KEXP from primary liability under this Lease. Each assignment and sublease shall be by an instrument in writing in form satisfactory to the Director. Any change in the legal incorporation or ownership structure of KEXP, including any change in KEXP's status as a U.S.C 501 (c)(3) entity, shall be deemed an assignment for purposes of this Section. KEXP shall pay all legal fees and other costs incurred by the City in connection with consideration of KEXP's request for approval of assignments or subleases.

20.2 Right of Mortgagee. Notwithstanding the foregoing provisions of this Section 20, KEXP shall have the right to grant or deliver a leasehold mortgage to Lender, all subject to and as provided in Section 21 of this Lease.

21. Encumbrance of Leasehold Estate

21.1 Permitted Encumbrance. Notwithstanding Section 20, KEXP may, at any time during the Lease Term, encumber to any person or entity, hereinafter called "Lender," by deed of trust or mortgage or other security instrument ("Leasehold Mortgage") any or all of KEXP's interest under this Lease and KEXP's leasehold estate for purposes of financing the construction of the Initial Improvements or any improvements, additions or modifications to the Premises or the Initial Improvements subsequently made. A Leasehold Mortgage in compliance with this Section shall not require the City's prior consent; provided, however, in no circumstance shall any encumbrance incurred by KEXP constitute in any manner a lien or encumbrance on the fee or any other interest of City in the Premises.

21.2 Notice of Default and Rights to Cure. If the Lender forwards to City an executed counterpart of the Leasehold Mortgage together with a written notice setting forth the name and address of the Lender, then, until the time, if any, that the obligations of KEXP under such Leasehold Mortgage shall be satisfied of record or the Lender shall give to City written notice that the obligations of KEXP under such Leasehold Mortgage have been satisfied, then the following shall apply:

21.2.1 No action or a greement hereafter taken or entered into by KEXP to cancel, surrender, or modify this Lease shall be binding upon the Lender or affect the lien of the Leasehold Mortgage, without the prior written consent of the Lender.

21.2.2 If City shall give any notice or demand under this Lease to KEXP, City shall at the same time give a copy of each such notice to the Lender at the address theretofore designated by the Lender. Such copies of notices shall be sent by registered or certified mail, and shall be deemed given at the time such copy is deposited in a United States Post Office with postage charges prepaid, enclosed in an envelope addressed to the Lender.

21.2.3 The Lender shall have the right to perform any term, covenant, condition or agreement applicable to KEXP under this Lease and to remedy any default by KEXP under the Lease, and City shall accept such performance by the Lender with the same force and effect as if accomplished by KEXP; provided, however, that the Lender shall not thereby or hereby be subrogated to the rights of City.

21.2.4 KEXP may delegate irrevocably to the Lender the authority to exercise any or all of KEXP's rights hereunder, but no such delegation shall be binding upon City unless and until either KEXP or the Lender shall give to the City a true copy of a written instrument effecting such delegation and no such delegation shall amend or modify the terms and conditions of this Lease. Such delegation of authority may be affected by the terms of the Leasehold Mortgage itself, in which case the service upon City of an executed counterpart of the Leasehold Mortgage in accord with this paragraph, together with a written notice specifying the provisions therein which delegate such authority to the Lender, shall be sufficient to give City notice of such delegation.

21.2.5 Cit y shall provide a commercially reasonable estoppel certificate to Lender within thirty (30) days of a request by Lender or KEXP in a form reasonably acceptable to the Director.

21.3 Uncured Default. Notwithstanding anything in this Section to the contrary, the failure or inability of KEXP or of any Lender to operate the Premises in the manner and for the Permitted Uses contemplated by the parties hereto and described in this Lease shall be considered a default and upon such failure or inability of KEXP of Lender to cure such default, the Lender shall have no further rights hereunder and City may proceed to terminate this Lease in accordance with the provisions of Section 24 hereof.

22. 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. KEXP shall attorn to any City successor which assumes and agrees to perform all of City's obligations under this Lease. Notwithstanding the foregoing, the City shall be responsible for all responsibilities under this Lease arising prior to the date of such transfer.

23. Damage or Destruction.

If the Building or the Premises are rendered partially or totally untenantable by fire or other casualty, and if the damage is repairable within twelve (12) months from the date of the occurrence, then provided that the insurance proceeds are available to pay the full cost of the repairs, the City shall repair the Building, including the Premises, with due diligence; otherwise the City may elect to terminate this Lease. Rent shall be abated in the proportion that the untenantable portion of the Premises bears to the whole thereof, as determined by the City, for the period from the date of the casualty to the completion of the repairs, unless the casualty results from the negligence of KEXP or any of its officers, contractors, agents, invitees, guests or employees or KEXP's breach of this Lease. If the City determines that the damage is not reasonably repairable within twelve (12) months from the date of occurrence, or if insurance proceeds are not available to pay the full cost of repairs, the City shall promptly advise KEXP of the City's determination and either party may elect to terminate this Lease by giving written notice to the other party within thirty (30) days after the determination. In the event of any damage by casualty, KEXP shall, at its sole cost and expense, repair all damage to its own personal property and trade fixtures at the Premises. City shall not be liable to KEXP for damages, compensation or other sums for inconvenience, loss of business or disruption arising from any repairs to or restoration of any portion of the Building or the Premises, including the New Stage, unless such damage is the result of the negligence of City or its officers, contractors, agents, or employees.

24. Default by KEXP.

24.1 Definition. If KEXP violates, breaches, or fails to keep or perform any term, provision, covenant, or any obligation of this Lease; or if KEXP files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for KEXP's assets or if KEXP makes an assignment for the benefit of creditors, or if KEXP is adjudicated insolvent, or becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or liquidated, voluntarily or otherwise; then KEXP shall be deemed in default ("Default").

24.2 City Remedies. If KEXP has defaulted and such Default continues or has not been remedied to the reasonable satisfaction of the Director within thirty (30) days after written notice thereof has been provided to KEXP, then City shall have the following nonexclusive rights and remedies at its option: (i) to cure such default on KEXP's behalf and at KEXP's sole expense and to charge KEXP for all actual and reasonable costs and expenses incurred by City in effecting such cure as an Additional Charge; (ii) without declaring this Lease terminated, to reenter the Premises and to occupy the whole or any part thereof for and

on account of KEXP and to collect any unpaid Annual Rent, In-Kind Rent, Additional Rent and Additional Charges that have become payable or that may thereafter become payable; or (iii) to terminate this Lease. If the nature of KEXP's obligation (other than monetary obligations and other than vacation or abandonment of the Premises) is such that more than thirty (30) days is reasonably required for performance, then KEXP shall not be in default if it commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion. If the KEXP's default is failure to pay any monetary obligation, then KEXP shall not be in default if it makes full and complete payment within 10 days of written demand from the City.

24.3 Reentry by City Upon Termination. Upon the termination of this Lease, City may reenter the Premises, take possession thereof, and remove all persons therefrom, for which actions KEXP shall have no claim thereon or hereunder. KEXP 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 KEXP. City shall have the right to sell such stored property, after reasonable prior notice to KEXP 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 KEXP to City; the balance, if any, shall be paid to KEXP.

24.4 Vacation or Abandonment. If KEXP vacates or abandons the Premises in its entirety and fails to reoccupy the Premises, all as described in Section 14, within thirty (30) days after City (1) delivers a notice to KEXP's notice address set forth in Section 1.10 above demanding such re-occupancy and (2) mails by certified or registered mail a copy of the notice to any forwarding address given by KEXP to City in writing, such failure shall be an uncured Default and shall not be subject to any additional cure period.

24.5 City's Non-Exclusive Remedies upon Termination due to Default of KEXP. Notwithstanding any reentry by City, in the event of the termination of this Lease due to the Default of KEXP, the liability of KEXP for all sums due under this Lease provided herein shall not be extinguished for the balance of the Term of this Lease. KEXP shall also be liable to City for any other amount necessary to compensate City for all the detriment proximately caused by KEXP'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 24.5 shall survive the expiration or earlier termination of this Lease.

24.6 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 KEXP 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.

25. 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 KEXP; 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, KEXP 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.

26. Attorney's 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; provided that this Section shall apply to direct claims between the Parties and shall not limit any attorney's fees that either Party may be required to pay as a result of any defense and indemnification obligation under Section 17 herein.

27. Access by City.

City and its agents shall have the right to enter the Premises at any reasonable time 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 City may deem necessary or desirable. If KEXP is not personally present to permit entry and an entry is necessary in an emergency, City may enter the same by master key or may forcibly enter the same, without rendering City liable therefor, except in the event of City's gross negligence or intentional misconduct. Nothing contained herein shall be construed to impose upon City any duty of repair or other obligation not specifically stated in this Lease. KEXP shall provide City with a key to access the Premises in the event of an emergency.

28. Holding Over.

If KEXP 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, KEXP 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 KEXP 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, KEXP shall pay City rent in an amount equal to One Hundred Fifty Percent (150%) of the then-current Cash and In-Kind Rent, Additional Rent and Additional Charges for the entire time KEXP thus remains in possession and KEXP shall hold City harmless from all damages resulting from KEXP's failure to surrender the Premises or any portion thereof, including, without limitation, claims made by a succeeding tenant resulting from KEXP's failure to surrender the Premises or any portion thereof. All provisions of this Lease, except those pertaining to the amount of Rent payable and Term, shall apply to such month-to-month tenancy.

29. Notices.

Any notice, demand or request required hereunder shall be given in writing to the party's address set forth in Section 1.10 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.

30. 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 KEXP and Seattle Center, the matter shall be referred to the Director and the KEXP Executive Director. 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 the Director and KEXP 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. KEXP and the City shall share equally the cost charged for the mediation of any dispute. If the dispute cannot be resolved by the process in this Section 30, then either Party may proceed to litigate their claims.

31. Force Majeure.

Neither City nor KEXP shall be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such is due to any cause beyond its reasonable control ("*force majeure*"), including, but not limited to an act of nature, act of civil or military authority, fire, flood, windstorm, earthquake, strike or labor disturbance, civil commotion, delay in transportation, terrorist act, war, or any other event not within a Party's control; provided, however, that the foregoing shall not excuse KEXP from the timely payment of Annual Rent, Additional Rent and Additional Charges when due hereunder unless otherwise excused under Section 23.

32. Execution by City and KEXP.

Neither City nor KEXP 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 KEXP until this Lease has been approved by appropriate legislative authority and executed by the parties hereto. The City shall not be liable to KEXP if this Lease is not authorized by a valid ordinance.

33. 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."

34. 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. Accordingly, City may do any and all of the following (among other activities in support of the Seattle Center Department of other municipal objectives), all without incurring any liability whatsoever to KEXP:

34.1 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, provided that any reduction or change will not impact the exterior courtyard to such an extent that the use of the New Stage is adversely impacted.

34.2 Traffic Regulation. City may regulate all traffic within and adjacent to the Premises, including the operation and parking of vehicles of KEXP and its invitees, employees, and patrons, subject to Section 9.5.

34.3 Display of Promotional Materials. City may erect, display, and remove promotional s and materials and permit special events on property adjacent to and nearby the Premises.

34.4 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.

34.5 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, the City will ensure that KEXP patrons entering Seattle Center for the sole purpose of visiting the Premises are not charged an admission fee.

34.6 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.

34.7 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 public.

35. City's Reserved Sponsorship and Advertising Rights; Signage; Naming Rights; Temporary Advertising.

35.1 City's Reserved Rights. City reserves the right to enter into, or grant a third party the right to enter into, naming rights, advertising or sponsorship agreements that grant exclusive representation applicable to any Seattle Center common area or Seattle Center facility such that the City, KEXP, or other Seattle Center tenants will be limited or prohibited from entering or renewing advertising or sponsorship agreements with competing sponsors. City's reserved rights do not apply to the interior portions of the Premises, where KEXP has the right to enter into agreements that grant naming rights, advertising and sponsorship rights only applicable to the interior of the Premises, broadcast, on-air, streaming, or other radio production sponsorship.

35.2 Signage Design and Placement. All permanent and temporary exterior signage shall be subject to the approval of the Director in his sole discretion. The Director shall cooperate with KEXP in developing the signage plan for the Premises. The Director will respond to any request for approval of signage within five (5) working days.

35.3 Naming. KEXP shall have the right to rename the Premises and parts thereof and the New Stage for the Lease term. The name and naming rights agreements shall be subject to the approval of the Director, which shall not be unreasonably withheld, conditioned, or delayed. KEXP acknowledges that any promotion of firearms or tobacco is expressly prohibited at Seattle Center, and KEXP's naming rights in this section are subject to that prohibition. KEXP's naming rights with respect to the New Stage are subject to any Seattle Center campus-wide exclusive sponsorship agreement in existence at the time of the Director's approval.

35.4 Sponsorship/Advertising. KEXP shall have the right to secure sponsorships and sell advertising to events occurring within the Premises, excluding the New Stage. KEXP shall have the right to sell Temporary Advertising to KEXP events at the New Stage, subject to the Director's prior approval and, subject to Section 35.6.2 below and any campus wide exclusive Seattle Center Agreements in effect at the time of the Director's approval. As used in this Lease, "Temporary Advertising" means advertising, sponsorship materials, or signage of any nature that is in place and visible immediately prior to and during a KEXP event at the New Stage, and that is removed after the event. Temporary Advertising at KEXP events may include placement of both signage and sponsor booths and materials in the upper Northwest Rooms Courtyard. City and KEXP will mutually develop standard event layouts for placement of items not on the New Stage.

35.5 Signage. KEXP will not display, post or distribute any material (including posters) on any part of the Seattle Center, excluding the interior of the Premises that are not visible from the exterior, except after receiving the Director's written approval therefor, which approval may be given, conditioned or withheld in the Director's reasonable discretion. Signage or advertising on the interior walls of the Premises that is visible from the exterior and whose placement was not purposefully determined with the intent of attracting attention from the exterior of the Premises shall not be subject to the Director's approval.

35.6 Competing Sponsors.

35.6.1 Seattle Center has an aggressive business strategy to secure corporate sponsors. In some cases, a corporate sponsor may require and/or receive exclusive product sales and 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. Subject to Section 35.6.2 below, if KEXP elects to pursue Temporary Advertising opportunities for

KEXP programs on the New Stage, all sponsors will be required to adhere to competitive product pricing guidelines.

35.6.2 The Parties shall work collaboratively and cooperatively in their efforts to secure multi-year advertising or sponsorship agreements that grant exclusive representation in their respective organizations with the goal of minimizing conflicts and maximizing returns for both parties. Except for the naming rights set forth in Section 35.3 above, in the event that City secures an exclusive advertising or corporate sponsor that creates a conflict with an existing KEXP multi-year Temporary Advertising agreement, and no alternative resolution of the conflict can be reached, then City may buy out the KEXP Temporary Advertising agreement by paying KEXP the remaining value of the current agreement, or in the event the KEXP advertising agreement includes a first right of refusal for continuation of the sponsorship and KEXP can demonstrate a previous long term sponsorship history with such advertising or corporate sponsor, the City may buy out the remaining value of the current agreement plus one year. KEXP shall then terminate and not renew such agreement with the advertising or corporate sponsor.

In the event that City proposes or solicits a new campus wide exclusive advertising or sponsorship agreement for which KEXP has no conflicting Temporary Advertising agreement and contingent on the new advertiser or sponsor being appropriate for New Stage programming as reasonably determined by KEXP and City, then KEXP and City will work collaboratively to include KEXP's New Stage programming as an opportunity in the City's proposed campus wide exclusive program. Advertising or sponsorship acknowledgement and deliverables on promotional platforms relative to KEXP's New Stage programming available for such campus wide exclusive advertising or sponsorship agreement may include, but shall not be limited to: on-site event alignment, potential audience engagement, on-air acknowledgment and/or on-line acknowledgment. Prior to proposing or soliciting a new campus wide advertiser or sponsor, the value of the incremental advertising and sponsorship agreement provided by KEXP to the campus wide exclusivity would be established collaboratively between the City and KEXP with such value subject to KEXP's final approval. If the new sponsor or advertiser agrees to inclusion of KEXP's New Stage programming sponsorship in the campus wide program, the incremental revenue associated with the sponsorship of KEXP programming, net of activation costs associated with KEXP programs or sponsorship commissions, will be paid to KEXP. If the advertiser or sponsor pays KEXP directly, then KEXP shall pay any activation costs or sponsorship commissions directly, or in the event all sponsorship revenue is remitted to the City by the advertiser or sponsor, then City shall remit to KEXP, within 30 days of receipt of payment, their share of the net revenue.

If KEXP elects not to include the New Stage in the Premises pursuant to Section 1.2 and elects to transfer ownership of the New Stage pursuant to Section 2.7.1 and

Section 11.7 then KEXP shall still receive the benefits set forth in this Section 35.6.2 as if the New Stage was part of the Premises.

35.7 Marketing Opportunities. Beginning on the Commencement Date, Seattle Center shall make similar opportunities available to KEXP as are available to other resident organizations for on-campus display advertising (interior and exterior), such as banners, logos and other marketing opportunities. KEXP events open to the public and included in the Seattle Center Event Management system will receive exposure on the Seattle Center website, reader boards, campus posters and monthly e-mail newsletters. Additional marketing tactics, if any, shall be as agreed upon in the development of the annual programming and marketing plan in the annual meetings under Section 7.3. The Director intends to support KEXP's objective to encourage visitation of KEXP from other sections of the Seattle Center campus, based on Seattle Center resources and policies.

35.8 Use of KEXP Brand and Logo. KEXP hereby grants to City a license to use the KEXP brand and/or logo for the marketing purposes identified in Section 35.6 subject to KEXP's reasonable consent.

35.9 Recognition of KEXP Location at Seattle Center. KEXP shall use its reasonable efforts to ensure that the words "KEXP at Seattle Center" or such other recognition that the parties agree to, appear in or on promotional, printed, or other materials that make reference to KEXP.

36. 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 KEXP concerning the Premises, and there are no other agreements or understanding, oral or written, between City and KEXP concerning the Premises. Any subsequent modification or amendment of this Lease shall be binding upon City and KEXP only if reduced to writing and signed by the Director and an authorized officer of KEXP. This Lease shall be governed by, and construed in accordance with the laws of the State of Washington. Venue for any dispute under this Lease shall be in King County Superior Court.

37. 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.

38. Counterparts.

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

39. 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.

40. Director's Approval.

The Parties agree that any Director decision to grant or withhold its consent or approval with respect to any specific item in this Lease shall be made in the Director's reasonable discretion unless otherwise specifically stated.

41. 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.

42. 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.

Remainder of page intentionally left blank; separate signature page attached.

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

CITY OF SEATTLE

FRIENDS OF KEXP

By: _____

By: _____

Robert Nellams
Director
Seattle Center Department

Thomas Mara
Executive Director
Friends of KEXP

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 entity that executed the foregoing instrument as City, and acknowledged said instrument to be the free and voluntary act and deed of the City, 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 FRIENDS OF KEXP)
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 Thomas Mara, known to me to be the Executive Director of **FRIENDS OF KEXP**, the entity that executed the foregoing instrument as KEXP; and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said entity.

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 _____.

EXHIBIT 1
LEGAL DESCRIPTION

The Premises are located on a portion of the land legally described as:

Lots 1 through 12, Block 32 and Lots 1 through 12, Block 35, D.T. Denny's Home Addition to City of Seattle, according to the plat thereof recorded in Volume 3 of Plats, page 115, in King County, Washington; together with that portion of Warren Avenue North vacated by City of Seattle Ordinance No. 88603; and that portion of alley vacated by City of Seattle Ordinance No. 8520 which attached to said premises by operation of law.

EXHIBIT 2
PREMISES FLOOR PLAN

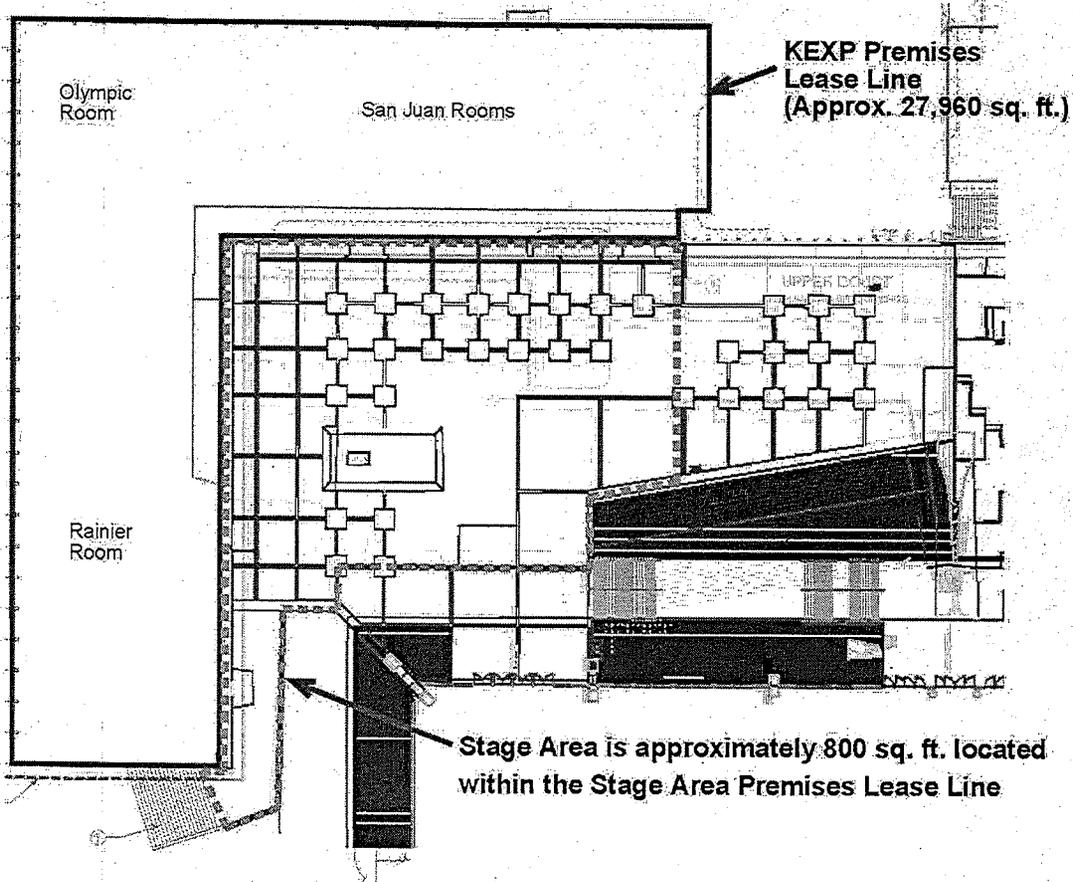


EXHIBIT 2 -- Premises Floor Plan

EXHIBIT 3-A
CONCEPTUAL INITIAL IMPROVEMENTS

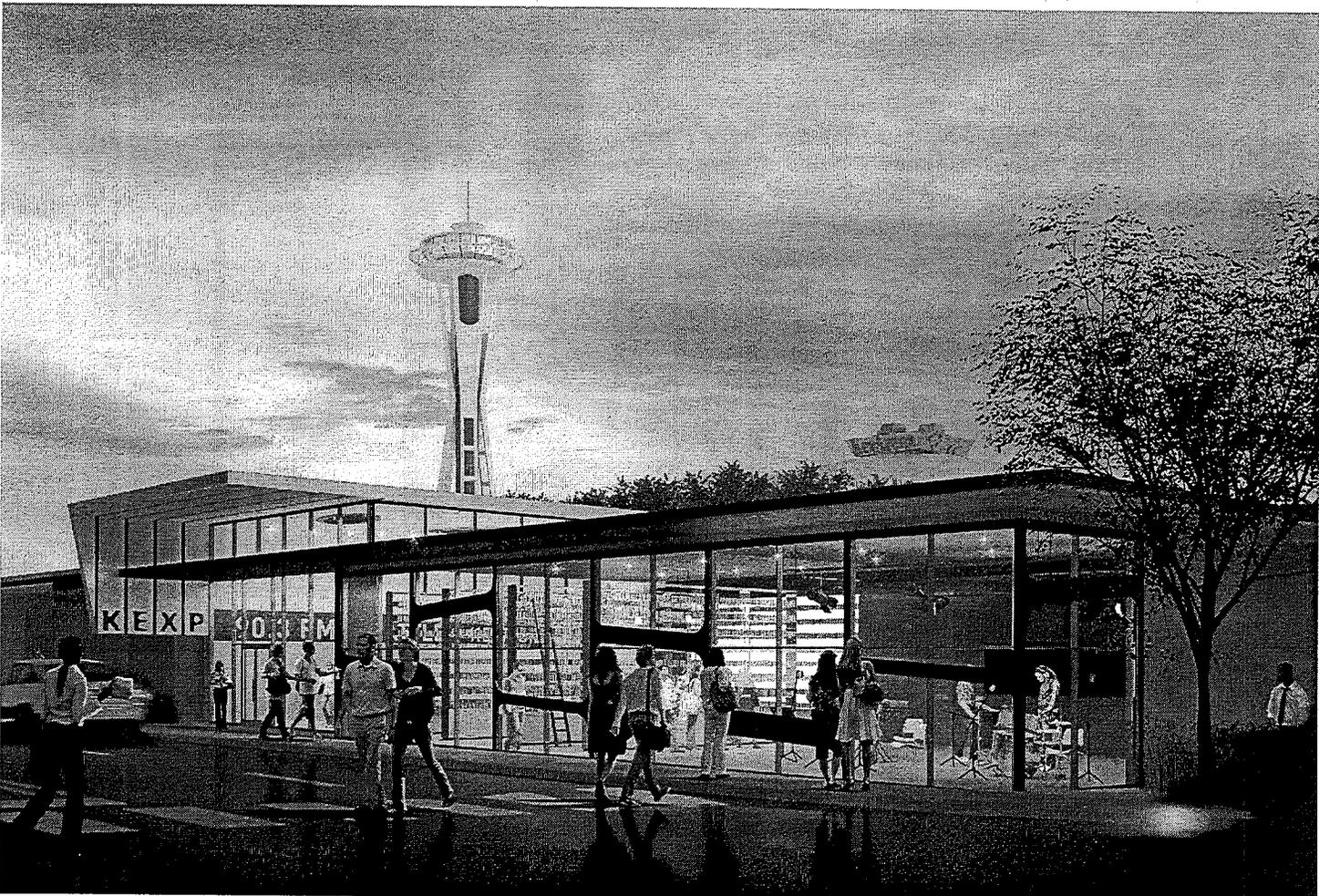


EXHIBIT 3-B
CONCEPTUAL INITIAL IMPROVEMENTS

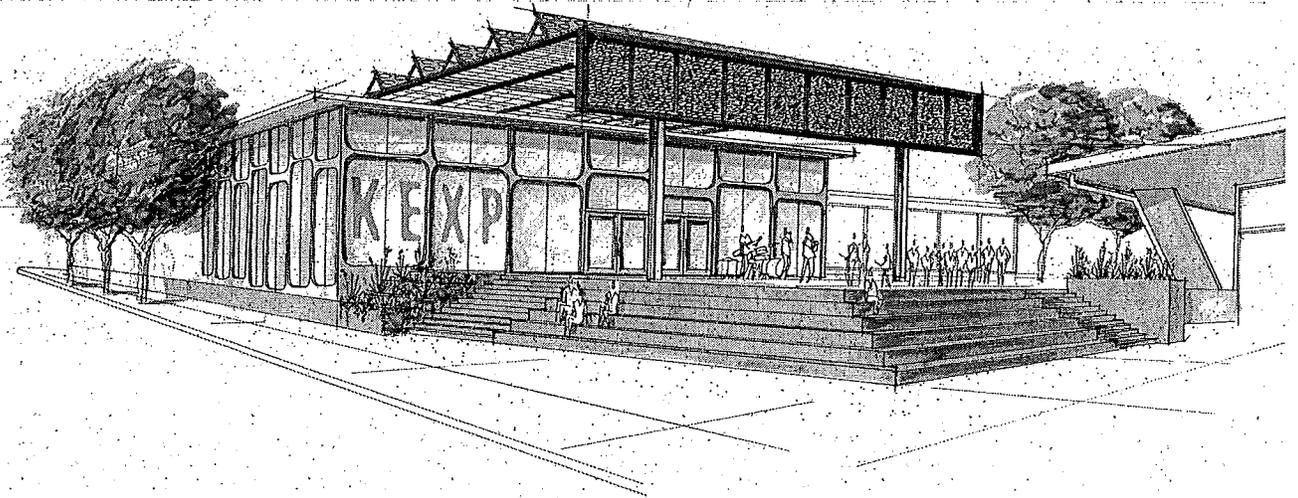


EXHIBIT 4
EXCLUSIVITY RIGHTS AT SEATTLE CENTER

1. Ground Lease Between The City of Seattle and Experience Music Project

- A. No Competing Uses. Throughout the term of this Ground Lease the City covenants that EMP shall be the only institution or venue on the Seattle Center grounds whose primary focus and use is the programming of exhibition space devoted to music and/or popular culture (as opposed to a performance venue) and the City shall not, during the term of this Ground Lease, allow or permit any institution, including itself, or any other party or venue on the Seattle Center grounds to engage in such use. The intent of this covenant is to ensure the continued status of the EMP as the sole institution on the Seattle Center grounds devoted to such use, and not to exclude festivals, seminars, concerts, traveling exhibitions or any other type of "temporary" venue which, for the purpose of this Ground Lease, shall be defined as any venue on the Seattle Center grounds open to the public for a period of 90 days or less. Notwithstanding the foregoing, the Director may from time to time request that the EMP waive enforcement of this covenant with respect to a particular festival, concert, or traveling exhibition other than a "temporary venue," as defined above, which request for waiver EMP shall consider in good faith. Any request for such waiver shall be in writing and such waiver, if granted, shall not be construed as a waiver or relinquishment by EMP of its right to future enforcement of this covenant.
- B. Exclusive Sales Rights. For the term of this Ground Lease, EMP shall have the exclusive rights to retail sales of any items possessing or containing EMP logos, services marks or trademarks. The City shall cooperate with EMP in enforcing such exclusive sales rights to the extent the Director, in good faith, feels is reasonable and appropriate.
- C. Liquor Sales. With the exception of the KeyArena, the Mercer Arena, Michelangelo's Restaurant (or its successor or replacement in the Seattle Center House) and future development within the area bounded by Fifth Avenue North, Mercer Street and Aurora Avenue known as the "Bus Barn" site, for the duration of this Ground Lease the City covenants that EMP shall be the sole facility on City-owned property within the current boundaries of the Seattle Center, as depicted on Exhibit H hereto, permitted to operate a full-service restaurant with a Class H liquor license and the City shall not allow or permit any party or venue on Seattle Center grounds to operate such a restaurant. The foregoing provision shall be null and void in the event that (a) EMP or its licensee fails to secure such liquor license within one year from the opening of the Museum to the public, or

(b) such license thereafter ceases to remain in effect for a period of one year at any time during the term of this Ground Lease.

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

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, 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 are subject to 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. The Parties agree and acknowledge that for the purpose of this Section 11.5, the sale of a de minimis or negligible amount of glass souvenirs, memorabilia or other similar glass products shall not be deemed a violation of Center Art's exclusive rights. City shall not be prohibited from allowing 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.

3. Key Arena [placeholder]

EXHIBIT 5
MEMORANDUM OF AGREEMENT FOR EVENT CURBSIDE MANAGEMENT

Seattle Department of Transportation / Seattle Center

MEMORANDUM OF AGREEMENT
for
Event Curbside Management

Agreement

This Memorandum of Agreement between Seattle Department of Transportation (SDOT) and Seattle Center describes procedures for Seattle Center to reserve right-of-way curbspace for loading, unloading and staging of events at Seattle Center. The agreement covers three types of curb reservation to be used depending on the size, duration and complexity of the event. More than one reservation type may be used along a single curb face as needed, provided use-specific signage is located to clearly delineate each type of reservation.

The reservation types are:

1. Type 1: Used for events where loading and unloading is generally from private personal vehicles. Reservations are 30-minute and 90-minute load and unload only. No parking is allowed beyond the signed time limits.
2. Type 2: Used when commercial truck –licensed vehicles are parked, loading, unloading and staging. Type 2 cannot be used for non-commercial vehicle parking, loading, unloading or staging.
3. Type 3: Used for events where loading, unloading and staging require numerous specialized trucks and other equipment, some of which need to be stored at the curb for the duration of the event. There are two options for Type 3 reservations — Special Events Permit through the Seattle Department of Parks and Recreation or Street Use Permit through SDOT.

Type 1 Reservations

The following are streets frequently used for a few days at a time for loading and unloading private personal vehicles and buses:

- North side of Thomas Street, between Warren Avenue North and 2nd Avenue North (7 spaces)
- South side of Republican Street, between 1st Avenue North and Warren Avenue North (9 spaces)
- South side of Republican Street, between 4th Avenue North and 5th Avenue North (12 spaces)

The following are streets occasionally used for a few days at a time for loading and unloading private personal vehicles and buses:

- South side of Thomas Street, between Warren Avenue North and 2nd Avenue North (10 spaces)
- East side of 2nd Avenue North between John Street and Thomas Street (6 spaces)

Procedure for Type 1 Reservations

1. Seattle Center staff or their designee fax an application to the SDOT Traffic Permits Counter (206-684-5985) identifying dates, times, and specific space numbers to be removed from pay station operation.
2. Seattle Center staff or their designee fax the same SDOT application to Seattle Police Department (SPD) Parking Enforcement (206-684-5101) 24 hours in advance of installing space reservation signs.
3. Seattle Center crews or their designee install gorilla posts with 30-minute or 90-minute "Load and Unload Only" signs no less than 2 hours before an event to reserve curbspace for the event. Seattle Center staff or their designee may post custom signage on the standard signs to further specify time restrictions during the day and the particular event or loading need. All signs must be tagged to indicate the date and time they were installed.

Type 2 Reservations

The following streets are occasionally used for commercial truck parking, loading, unloading and staging:

- East side of Warren Avenue North, between John Street and Thomas Street (15 spaces)
- Both sides of Thomas Street, between Warren Avenue North and 2nd Avenue North (south side 10 spaces, north side 7 spaces)
- Both sides of 4th Avenue North between Mercer Street and Republican Street (west side - 12, east side - 10)
- South side of Republican Street, between 4th Avenue North and 5th Avenue North (12 spaces)
- South side of Roy Street, between 3rd Avenue North and 4th Avenue North (22 spaces)
- West side of 2nd Avenue North, between Thomas Street and John Street (7 spaces)
- East side of Warren Avenue, between Mercer Street and Republican Street (9 spaces)
- South side of Republican Street, between 1st Avenue North and Warren Avenue North (9 spaces)

Procedure for Type 2 Reservations

1. Seattle Center staff or their designee fax an application to the SDOT Traffic Permits Counter (206-684-5985) identifying dates, times, and specific space numbers to be removed from pay station operation, and requesting truck permits. All vehicles must be licensed trucks, must have the cab attached, and display the permit at all times. Seattle Center or their designee may request more permits than there are spaces to facilitate sequential usage by several trucks. SDOT will mail or messenger permits to Seattle Center or their designee at Seattle Center or their designee's request and expense. Seattle Center will be responsible for getting permits to trucks.
2. Seattle Center staff or their designee fax the same SDOT application to Seattle Police Department (SPD) Parking Enforcement (206-684-5101) 24 hours in advance of installing space reservation signs.

3. Seattle Center crews or their designee install gorilla posts with "No Parking" signs no less than 2 hours before an event to reserve curbspace for the event. Seattle Center or their designee may post custom signage on the standard signs to further specify time restrictions during the day and the particular event or loading need. All signs must be tagged to indicate the date and time they were installed.

Type 3 Reservations

The following streets are used for major festivals for vehicle loading, unloading and staging, as well as storage for refrigerated trailers and other equipment:

- Both sides of Thomas Street, between Warren Avenue North and 2nd Avenue North (north side 7 spaces, south side 10 spaces)
- Both sides of Republican Street, between 4th Avenue North and 5th Avenue North (north side 8 spaces, south side 12 spaces)
- Both sides of Republican Street, between 1st Avenue North and Warren Avenue North (north side 10 spaces, south side 9 spaces)
- Both sides of 2nd Avenue North, between John Street and Thomas Street (west side 7 spaces, east side – 7 spaces)
- Both sides of Warren Avenue North, between Mercer Street and Republican Street (east side 9 spaces; west side 13 spaces)
- Both sides of Warren Avenue North, between John Street and Thomas Street (east side 15 spaces, west side 8 spaces)
- East side of 2nd Avenue North, between Roy Street and Mercer Street (10 spaces). During major festivals, these spaces will be used for disabled parking only (displaced from Lot 6).
- Both sides of 4th Avenue North between Republican Street and Mercer Street (west side 12 spaces, east side 10 spaces)

Procedure for Type 3 Reservations (Options 1 and 2)

(Option 1) Festivals may acquire a Special Events Permit through the Seattle Department of Parks and Recreation Special Events Committee. Such a permit supersedes standard SDOT permits and regulations and SPD routine enforcement.

1. Seattle Center or Festival applies for and follows all procedures for a permit through the Special Events Committee. No SDOT permits are required.
2. Seattle Center crews or Festival install gorilla posts with "No Parking" signs to reserve curbspace no less than 2 hours before an event. Seattle Center may post custom signage on the standard signs to further specify time restrictions during the day and the particular event or loading need. All signs must be tagged to indicate the date and time they were installed.

(Option 2) Seattle Center or Festival may work with SDOT Street Use Division for permits that allow curbside storage of truck trailers without cabs (as of August 1, 2007). Vehicles that do not require curbspace storage are still permitted by SDOT Traffic Permits.

1. Seattle Center or Festival works directly with SDOT Street Use Permits Counter to acquire all necessary Permits. SDOT Street Use Permits must be acquired at least 24 hours in advance of the truck trailers being placed in the right-of-way. In order to obtain the permit, Seattle Center or Festival must provide the location, use area and associated permit fees to SDOT Street Use.
2. For vehicles that do not require curbspace storage of truck trailers without cabs, the permitting process with SDOT Traffic Permits will be the same as for Type 2 reservations.
3. Seattle Center staff fax the SDOT application to SDOT if required, and to Seattle Police Department (SPD) Parking Enforcement (206-684-5101) 24 hours in advance of installing space reservation signs.
4. Seattle Center crews or Festival install gorilla posts with "No Parking" signs no less than 2 hours before an event to reserve curbspace for the event. Seattle Center may post custom signage on the standard signs to further specify time restrictions during the day and the particular event or loading need. All signs must be tagged to indicate the date and time they were installed.

Signage

Seattle Center will purchase and maintain a sufficient numbers of gorilla posts to effectively reserve curbspace in the locations described, along with signs as appropriate for each type of reserved curbspace. Main signage text and colors will be SDOT standard, except as mutually agreed by SDOT and Seattle Center. Seattle Center or their designee may add auxiliary signage on the main sign, as described above, at their discretion.

Seattle Center or their designee must locate signs along the curbspace to accurately delineate the reserved space. Signs with appropriate directional arrows must be placed at each end and at least every other parking space along the length of curbspace being reserved.

Fees

Due to the nature of Seattle Center as a unique event destination, their need to use adjacent streets in support of their event management, and the past practice of not being charged for those activities, the SDOT Director of Traffic Management waives both the hooding fees and the lost revenue fees that would otherwise accrue for use of paid curb space.

Seattle Center, or the Festival requesting a permit, is responsible for any Street Use permit fees or Special Event permit fees, and any related charges that may result from their transactions with SDOT Street Use Division or the Seattle Department of Parks and Recreation.

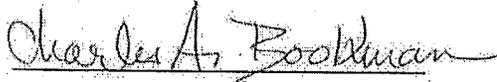
Enforcement

SDOT and Seattle Center will rely on SPD Parking Enforcement to enforce the Type 1 reservation 30- and 90-minute time limits. SDOT Commercial Vehicle Enforcement will enforce all truck permits for Types 2 and 3 reservations except when a Special Events Permit is in effect. SDOT Street Use will enforce street use permits.

Term of Agreement

This Agreement will become valid when signed by representatives of Seattle Center and SDOT, and will remain in effect indefinitely, unless amended or replaced by mutual agreement of the departments' representatives.

SEATTLE DEPARTMENT
OF TRANSPORTATION

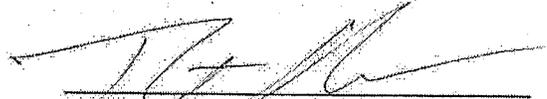


Charles Bookman, Director of
Traffic Management

6/16/11

Date

SEATTLE CENTER



Robert Nellams
Director

6/20/11

Date

EXHIBIT 6
INSURANCE

1. **KEXP Furnished Coverages and Limits of Liability:** KEXP 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
 - Fire/Tenant Legal Liability

Limits of liability shall be not less than \$2,000,000 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
- \$ 500,000 each occurrence - Fire/Tenant Legal

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. **All Risks Property insurance** on a replacement cost basis, covering KEXP's trade fixtures and business and personal property ("KEXP Property").. Such insurance shall include Time Element coverage with sufficient limits to provide for loss of revenues and additional expenses during an interruption of KEXP's activities due to damage to or loss of the Premises.

2. **KEXP Contractor-Furnished Coverages and Limits of Liability:** KEXP's contractor, at no expense to the City, shall maintain in full force and effect at all times during the period of Initial Improvements insurance as specified below.

- 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).

3. City-Furnished Property Insurance Coverages, Limits of Liability, Deductibles and General Conditions:

A. During the period of Initial Improvements, the City shall maintain Builder's Risk All Risks Property Insurance on the Premises (excluding KEXP trade fixtures and personal property) on a replacement cost basis, subject to a deductible of \$100,000 as of the Commencement Date of this Lease that is subject to change from time to time. KEXP and KEXP's prime contractor shall be designated as loss payees as their interest shall appear under said Builder's Risk Property Insurance.

B. At all other times than during the period of Initial Improvements, the City shall maintain in full force and effect until the Expiration Date of this Lease, "Permanent" All Risks Property Insurance on the Premises (excluding KEXP trade fixtures and personal property), including earthquake and flood, on a replacement cost basis, subject to a deductible of \$250,000 as of the Commencement Date of this Lease that is subject to change from time to time. KEXP and KEXP's prime contractor shall be designated as loss payees as their interest shall appear under said Builder's Risk Property Insurance.

C. The City shall provide Certification of Insurance evidencing Property Insurance as specified above to KEXP and KEXP's prime contractor(s). In addition, the City shall, upon written request of KEXP or KEXP's prime contractor(s), provide an electronic PDF copy of the current Builder's Risk or Permanent property insurance policy(ies).

4. Mutual Waiver of Property Insurance Subrogation: KEXP and the City hereby waive their respective rights of subrogation in favor of the other with respect to perils covered by insurance required under this Lease. KEXP and the City also waive their respective rights of recovery in favor of the other for claims falling within their respective Property Insurance policy deductible amounts, except to the extent to which the party against whom recovery is sought caused or contributed to the loss.

5. General Conditions (Do not apply to Workers Compensation insurance or City-Furnished Property Insurance):

1. 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. KEXP shall be responsible for paying any claims that fall within amount of the self-insured retention. In order for the City to approve a self-insured retention above the stated amount, KEXP must state, in writing, that it will protect and defend the City of Seattle as an additional insured under its self-insured retention to the same extent as City would be protected under a commercial insurance policy meeting the requirements set forth herein has been issued and, in addition, provide detailed information as to how and to whom the City should direct any notice or tender.
2. 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 issues as surplus lines under the provisions of chapter 48.15 RCW by a Washington State licensed broker.
3. 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.
4. 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 KEXP and provided such increases are reasonable with respect to market practices.
5. If KEXP fails to maintain insurance as required herein, the City may procure the same and charge KEXP for the full expense thereof, which KEXP shall pay upon demand.
6. KEXP shall not keep or use in or about the Premises any article, which is prohibited by City's insurance policy. KEXP shall pay immediately any increase in City's premiums for insurance during the term of this Lease that results from KEXP's use of the Premises.
7. KEXP shall incorporate by reference or otherwise this Insurance Exhibit it its prime contract agreement(s).

E. Evidence of Insurance

Except with respect to Workers' Compensation insurance, before occupying the Premises, KEXP 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.

As respects CGL insurance, evidence of insurance for KEXP and KEXP'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.

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

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 emailed as a PDF or XLS attachment to riskmanagement@seattle.gov.

The certificate holder shall be:

The City of Seattle c/o Seattle Center
305 W. Harrison St., Room 109
Seattle, WA 98109

Certification shall be delivered electronically as an email attachment in PDF or XLS format to riskmanagement@seattle.gov, with an electronic copy to Juanita.Woelfle@seattle.gov

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.

Exhibit 7
SAMPLE UTILITY PRORATION METHODOLOGY AND INVOICE

Statement of Costs of Utility services provided by Seattle Center

Prepared by: _____ Phone: _____ Date: _____

HEATING:

Fuel Cost per Therm: _____ Days in Period _____
 Period 1: _____ 0
 Period 2: _____

Fuel Cost per Therm = Fuel Cost per Period 1 x (Days in Period 1 / Days) +
 Fuel Cost per Period 2 x (Days in Period 2 / Days) =

Boiler Efficiency: 81% Line Loss Factor: 10%

Cost per Therm = Fuel Cost per Therm / Boiler Efficiency / (1-Line Loss Factor) =

Previous reading: _____ Date _____ Previous Month Usage/Reading: _____ Sensor Reading _____
 Present reading: _____
 Days: _____ 0 Gallons of Condensate: _____ 0

Total Usage = _____

Heating Cost = Cost per Therm x (Gallons of Condensate * 8.3) / 100 =

COOLING:

Cost per Kilowatt-Hour: _____ Days in Period _____
 Period 1: _____ 0
 Period 2: _____

Cost per Kilowatt-Hour = Cost per kWh per Period 1 x (Days in Period 1/Days) +
 Cost per kWh per Period 2 x (Days in Period 2/Days) =

12,000 BTUs = 1 ton Cost/Ton = \$.21 x Cost per kWh / .0265 =

Previous reading: _____ Date _____ Previous Month Usage/Reading: _____ Sensor Reading _____
 Present reading: _____
 Days: _____ 0 BTUs: _____ 0

Total Usage = _____

Cooling Cost = BTUs / 12000 x Cost/Ton =

WATER/SEWER:

Rates per CCF: _____ Water _____ Sewer _____ Combined Rate _____ Days in Period _____
 Period 1: _____ 0
 Period 2: _____ 0
 Period 3: _____ 0
 _____ 0

Previous reading: _____ Date _____ Previous Usage: _____ CCF _____
 Present reading: _____
 Days: _____ 0 Current Usage: _____

Water/Sewer Cost = CCF Used prorated by billing period * Combined Rate/Period =

ELECTRICITY

Rates per KWH: _____ Days in Period _____
 Period 1: _____ 0
 Period 2: _____ 0

Previous Reading: _____ Date _____ Sub-meter KW: _____
 Present Reading: _____
 Days: _____ 0 Current Reading: _____
 Current Usage: _____ 0

Electricity Cost = KW used prorated by billing period * 32 (Conversion KWH) * Rates per KWH =

GARBAGE/RECYCLING:

Billing Cost: _____
 Total Due: _____

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Center	Robert Nellams, 684-7334 Kerry Smith, 615-0358 Rebecca Keith, Law, 684-8239	Gregory Shiring, 386-4085

Legislation Title:

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute a ten year lease agreement, with additional options to extend, with Friends of KEXP; under which agreement KEXP will renovate and lease space in the Northwest Rooms and a portion of the adjacent courtyard at Seattle Center for use as KEXP's radio broadcast studios and offices, performance spaces, a café, a shared use outdoor stage, and other uses supporting KEXP's operations.

Summary of the Legislation:

This legislation authorizes execution of a lease agreement with Friends of KEXP for space in and near the Northwest Rooms at Seattle Center. Under this agreement, Friends of KEXP will enter into a 10-year lease with the City for the Northwest Rooms site. KEXP will renovate and use the space for KEXP's broadcast and production studios, their administrative and business offices, a café, interior and exterior performance spaces and other uses supporting KEXP's operations. Contingent on certain conditions being met, the lease will commence on November, 1, 2013. During the budget year in which the lease commences the City will request appropriation of up to \$250,000 for acquisition of a backup generator and technical fiber connections to serve KEXP's premises.

Background:

In the spring of 2010, Seattle Center issued a Request for Proposals (RFP) for redevelopment of the South Fun Forest site that was vacated by Fun Forest Amusement, LLC. Nine proposals were received in response, including a proposal from KEXP.

In an effort to involve a broad range of the community interested in the review, the department established a citizens RFP review panel ("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. In September 2010, the Review Panel submitted its recommendation to the Seattle Center Director that the proposal submitted for an exhibition space featuring the work of glass artist Dale Chihuly best satisfied the criteria, but the committee agreed that the addition of KEXP as a resident organization would be positive and supported the idea of exploring alternative locations on the campus for KEXP. The committee also noted that KEXP is likely to draw a younger demographic to Seattle Center and add to the unique mix at the Center.



Through ongoing discussions with KEXP the upper Northwest Rooms site was identified as an alternative location that met KEXP's needs and provided a potential venue site for outdoor concerts. In addition, KEXP's vision for renovation of the upper Northwest Rooms transforms the building with glass walls that give people a clear view of DJs and artists and improves connections to Lower Queen Anne.

The Seattle Center Northwest Rooms, located next to KeyArena, are currently used for meetings, seminars, banquets, small exhibits and more. The six rooms that KEXP will lease range in size from 925 to 6,000 square feet and can be utilized separately or in combination. The rooms open onto a landscaped courtyard and are adjacent to the Vera Project and the Seattle International Film Festival.

Lease Terms

Friends of KEXP plans to renovate and use the space for KEXP's broadcast and production studios and related purposes such as administrative and business offices and interior performance spaces. They will also develop a new stage in the Northwest Rooms Courtyard that will be used by KEXP, festivals and Seattle Center.

Term of Agreement

- The initial lease term is for ten years with four additional five year options for a total lease term of up to 30 years.
- The lease will commence on November 1, 2013, contingent on 1) issuance of a building permit to KEXP for the project, 2) demonstration by KEXP that they have sufficient funds to make the planned improvements and 3) completion of a construction agreement.
- If the conditions for the lease to commence have not been met by November 1, 2013, KEXP may exercise an option to delay the commencement on two occasions for one year on each occasion. If the extension option is exercised KEXP will pay an option fee of \$31,250 per option to delay the lease commencement. The fee may be paid in cash or in-kind advertising services.

Construction Financing

- Friends of KEXP will be responsible for all capital costs associated with the renovation.
- At the time of the lease commencement and conditioned on a future appropriation, the City will invest up to \$250,000 to connect KEXP via dark fiber to the University of Washington and the City's power transmitter facility at 18th and Madison and to acquire and install an emergency generator, transfer switch and generator fuel tank to support KEXP's operations.

Rent

- KEXP will pay an annual rent of \$290,500 comprised of a combination of cash rent of \$62,500 and \$228,000 of in-kind rent.



- Beginning in year 6 of the lease and each year thereafter, the rent will be increased by 2%.
- KEXP may sublease up to 25% of the 27,960 square foot Premises for terms of 30 days or less for uses that support KEXP's operation as a nonprofit music and arts organization and that are consistent with Seattle Center's overall mission.
- KEXP may sublease portions of the Premises for longer terms for uses that are compatible with Seattle Center's over-all mission.
- KEXP will pay Seattle Center 15% of gross rents received from any sublease to tenants, excluding rent received by KEXP from nonprofit organizations.

Maintenance and Operations

- KEXP will be responsible for operation and maintenance of the building interior and of all building systems upgraded or modified as part of the project.
- The City will be responsible for maintenance of the roof, exterior windows and exterior walls of the building as well as maintaining utility systems serving the building.
- Seattle Center will provide up to \$5,000/year of staff time to maintain the new emergency generator and up to \$3,000/year of staff time for routine repair and maintenance of any mechanical, plumbing, wastewater, electrical, or similar system serving the site.
- If any utility system serving the building requires major repair, the City and KEXP will share the cost equally.

Public Benefits and Community Partners

- KEXP will fund renovation of the Upper Northwest Rooms.
- KEXP will enable City use of the new stage for festivals and other events.
- KEXP will provide content and links for the Seattle Center homepage.
- KEXP will provide up to ten work spaces for City staff in the event of a power outage and may serve as an emergency command center.
- KEXP will play a curatorial role in offering Seattle Center incidental arts experiences.
- KEXP will work to develop partnerships with organizations and groups to help people discover music.

Other

- At the end of the lease term, all capital improvements made to the premises will become the property of the City.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.



Appropriations:

Fund Name and Number	Department	Budget Control Level*	2011 Appropriation	2012 Anticipated Appropriation
TOTAL				

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

Appropriations Notes: Although this legislation does not include an appropriation, it does include a commitment that prior to the lease commencing, which would be November 1, 2013 at the earliest, that the Executive will include in the proposed capital budget or in separate legislation, and subject to valid appropriation, invest up to \$250,000 in the premises for specific purposes. Those purposes include data connection of the KEXP premises via fiber to the City's transmitter at 18th and Madison and to the University of Washington, and acquisition and installation of an emergency generator, transfer switch and generator fuel tank at the premises.

Anticipated Revenue/Reimbursement: Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2011 Revenue	2012 Revenue
TOTAL				

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

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2011 Positions	2011 FTE	2012 Positions*	2012 FTE*
TOTAL							

* 2012 positions and FTE are total 2012 position changes resulting from this legislation, not incremental changes. Therefore, under 2012, please be sure to include any continuing positions from 2011.

Position Notes: There are no positions created, modified or abrogated through this legislation. When KEXP has met the conditions necessary for commencement of the lease in the Northwest Rooms, Seattle Center expects to move the majority of events currently held there to other facilities at Seattle Center. While there may be position implications due to this rearrangement of events, at this time it is assumed that current staffing will be relocated resulting in no net reduction or increase in positions.

Do positions sunset in the future?

Not applicable

Spending/Cash Flow:



Fund Name & #	Department	Budget Control Level*	2011 Expenditures	2012 Anticipated Expenditures
TOTAL				

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

Spending/Cash Flow Notes:

Not Applicable

What is the financial cost of not implementing the legislation?

If this agreement is not approved and the KEXP lease is not approved, the City will forego the financial and public benefits outlined above.

Does this legislation affect any departments besides the originating department?

Yes, the Department of Information Technology (DoIT) will be responsible for working with Friends of KEXP, the University of Washington and Seattle Center to implement the necessary dark fiber connections between the UW, KEXP and the City. The City has agreed to spend, subject to valid appropriation, up to \$250,000 to implement the necessary connections. Mr. Bill Schrier, Chief Technology Officer, and Mr. Stan Wu Major Project Director, are aware of the legislation.

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

As part of the RFP process for the South Fun Forest site, the City considered multiple alternatives for Seattle Center tenants and identified Friends of KEXP as a positive addition to the tenant mix at Seattle Center.

Is the legislation subject to public hearing requirements?

No

Other Issues:

None

List attachments to the fiscal note below:

None





City of Seattle
Office of the Mayor

August 23, 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 Friends of KEXP to renovate and use portions of the Seattle Center Northwest Rooms as KEXP's broadcast and production studios and offices. Additionally, KEXP will provide performance spaces both inside and outside the facility, and anticipates including a café and other music and arts organization related uses. KEXP is a non-profit, independent media, public radio station seeking to steward the airwaves to serve the good of the people. KEXP is more than just a radio station. In addition to its eclectic music mix, KEXP has a goal to teach listeners more about the craft of making music, the history of popular music, and the musician's making today's new sounds.

Under the lease agreement authorized by this proposed legislation, KEXP will fully fund renovation of the Norwest Rooms into studio and performance spaces and will lease and maintain the space for ten years, with options for future lease renewals. KEXP is currently in the process of raising the funds for the improvements. The earliest the lease would commence would be November 1, 2013. KEXP will pay an annual rent starting at \$290,500, with \$62,500 of that amount paid in cash and the balance paid in in-kind advertising services. In addition, KEXP will develop and lease a new stage in the Northwest Rooms Courtyard, to be used for its events and for Seattle Center productions and festivals.

KEXP works to enrich people's lives by championing music and discovery, helping connect people and create meaning in the world. Its mission and vision complement Seattle Center's efforts to bring together our rich and varied community making KEXP an exciting addition to the Seattle Center campus. 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.mcgin@seattle.gov

