

LEASE – Appendix M to Appendix H - Homeless Assistance Submission

After recording return to:

City of Seattle
Office of Housing
PO Box 94725
Seattle, WA 98124-4725
Attention: Thomas Mack

LEASE

Reference numbers of related documents:

N/A

Grantor:

THE CITY OF SEATTLE

Grantee:

Archdiocesan Housing Authority

Legal Description:

Summary: _____

Additional description on Exhibit D

Assessor's Property Tax Parcel Account Nos.:

LEASE

Between

The City of Seattle
a municipal corporation
of the State of Washington and

Archdiocesan Housing Authority
a Washington nonprofit corporation

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List of Exhibits:

- A. Map of Fort Lawton Property
- B. Development Process
- C. Map of the Premises
- D. Legal Description of Premises
- E. Information Received by Lessee

LEASE

Between

The City of Seattle
a municipal corporation
of the State of Washington and

the Archdiocesan Housing Authority
a Washington nonprofit corporation

**FOR THE DEVELOPMENT AND OPERATION
OF HOUSING FOR HOMELESS PERSONS AT FORT LAWTON**

This Lease is entered into as of the ____ day of _____, 20__ by The City of Seattle, a municipal corporation of the State of Washington and the Archdiocesan Housing Authority, a Washington nonprofit corporation (“AHA” or, together with any Assignee of its interest hereunder, “Lessee”).

RECITALS

On _____, 20__, the City acquired title to portions of the Fort Lawton Army Reserve Center from the United States government under terms and conditions requiring, among other public and community uses, the development and management of housing for the homeless and related services.

AHA was selected by the City through a Notice of Interest to construct and operate 85 units of housing for homeless seniors age 55 and older as part of the redevelopment of property identified by the Army for disposition as surplus at Fort Lawton. AHA will provide an appropriate residential environment and plan, and arrange and coordinate social and health services for the project’s tenants. AHA’s supportive services model is to provide a high level of on-site programming including case management designed to promote tenant housing stability and self-sufficiency. On-site property management services are to include 24-hour front office staffing.

AHA will enter into an agreement with United Indians of All Tribes Foundation (“United Indians”) to provide residents culturally appropriate supportive services on- and off-site. United Indians operates the nearby Daybreak Star Cultural Center, which serves as a nucleus of Native American cultural activity in the region. United Indians was selected by the City through the Notice of Interest process to provide culturally-appropriate support services.

The City and AHA anticipate assigning the Lessee's interest in this Lease to a limited liability company or limited partnership for the purpose of securing financing for constructing the homeless housing units on the Premises.

THEREFORE, in consideration of the lease of the below-described premises by the City as Lessor to AHA as Lessee and the mutual covenants made herein, the parties agree as follows:

1. DEFINITIONS

The following capitalized terms used in this Lease shall have the following meanings unless the context otherwise requires:

“Application” means the redevelopment plan and homeless assistance submission by the City to the United States Department of Housing and Urban Development (“HUD”) and United States Department of Defense (“DoD”) for the transfer of the Premises to the City, as finally approved by HUD and DoD.

“AHA” means Archdiocesan Housing Authority, a Washington nonprofit corporation.

“Article” means a portion of this Lease designated by a number and a heading in all capital letters, and includes all Sections thereunder.

“Army Deed” means the deed conveying the Premises from the United States Army to the Lessor dated _____, 20__ and recorded under King County recording no. _____

“Assignee” means the recipient of any Assignment, made with written consent of Lessor, that assumes the obligations of Lessee hereunder.

“Assignment” means the assignment of all of the Lessee's rights and interests under this Lease.

“Building” means the residential building to be constructed by the Lessee pursuant to this Lease, including all fixtures thereon and therein, and any replacements for the building and fixtures.

“Certificate of Occupancy” means a temporary certificate of occupancy issued by SDCI after constructing the Improvements, or, if no temporary certificate of occupancy is issued, then a permanent certificate of occupancy.

“City” means The City of Seattle, a Washington municipal corporation.

“Codes” include all land use, building, housing, fire, electrical, mechanical, plumbing, and other codes applicable under City ordinances or State law, and all valid interpretations thereof issued by the agencies responsible for the administration thereof.

“Construction Plans” means plans and specifications for constructing the new Improvements, or for restoring the Improvements, in sufficient detail for submitting a building permit application and in compliance with all applicable Codes.

“DoD”: means the United States Department of Defense, and any successor agency.

“Director” means the City of Seattle Director of the Office of Housing and any official who may succeed to the authority or responsibility of the Director to act for the Lessor under this Lease. In addition, in any instance in which action by the “Director” is contemplated by this Lease, “Director” shall include any other City employee authorized by the Director or by the Mayor of The City of Seattle to take such action.

“Effective Date” means the date when this Lease has been executed by both parties.

“Environmental Review” means review by the United States government under the National Environmental Policy Act and related laws in connection with transferring the Premises or Fort Lawton Property.

“Fort Lawton Property” means the land generally depicted on Exhibit A, including land acquired from the United States by the Lessor and land acquired or to be acquired by other parties, and all buildings and improvements now or hereafter located thereon, subject to any deletions, additions, or adjustments as may have been or may be required by the United States government in connection with the transfers of property.

“Homeless person” has the meaning set forth in 24 CFR Section 586.5.

“HUD” means the United States Department of Housing and Urban Development and any successor department or agency.

“Improvements” means the Building, any additions or modifications thereof, and any other structures or fixtures that shall be constructed or installed on the Premises during the Term of this Lease, but shall not include any infrastructure or utility improvements (including but not limited to streets; light and power poles; signs; water, sewer, electric and gas lines) presently existing or hereafter installed and owned by the City or any other public utility.

“Lessor” means the City, solely in its capacity as the owner of the Premises and lessor under this Lease, and any successor owner of the Premises.

“Personal Property” means any personal property acquired for operating or maintaining the Premises with funding provided by the City or another government.

“Premises” means the land depicted in Exhibit C and described in Exhibit D attached hereto and incorporated by this reference.

“Rent” means the rent fixed in Section 4.1.

“SDCI” means the Seattle Department of Construction and Inspections, and any successor agency.

“Section” means a part of this Lease designated by a number with a numeral after a decimal point, such as “11.3”, including all subsections, paragraphs, and clauses therein.

“Tenant” means any residential tenant or subtenant occupying a housing unit, and any member of any such person’s household when such person has the status of a tenant under applicable law.

“Term” means the term of this Lease specified in Section 3.1, as extended, if applicable, pursuant to Section 3.4.

“United Indians” means United Indians of All Tribes Foundation, a Washington nonprofit corporation.

2. BUILDING CONSTRUCTION

2.1 The Lessee shall cause to be constructed and installed on the Premises, at Lessee’s expense, a residential building including 85 dwelling units, other suitable common areas, fixtures, systems, and furnishings, and the driveways, parking areas, walkways reasonably required to serve the Building, and all landscaping required in connection with applicable permits, all in accordance with the Construction Plans acceptable to the Director. The Lessee shall diligently pursue all necessary private, federal, state, and local financing, permits, approvals, design and engineering work, and contracts for developing and constructing the Building and such related site Improvements.

2.2. The Lessee shall comply with the development process in Exhibit B to this Lease, which is incorporated by this reference, in each case unless extended by the Director in writing, in the discretion of the Director. Regardless of any extensions or any other provisions of this Lease, the Lessee shall ensure that the Building is completed, has a Certificate of Occupancy, and is ready for occupancy of all Units, no later than 5 years after the Effective Date.

3. TERM

3.1 Term of Lease. Subject to the provisions of this Lease and the terms of the Army Deed, Lessor leases to Lessee and Lessee leases from Lessor the Premises described below. This Lease shall be in effect from the Effective Date for a period of 60 years, ending the day before the 60th anniversary of the Effective Date (“Initial Term”), unless sooner terminated as provided elsewhere in this Lease.

3.2 Early Termination. The Lease may be terminated before expiration of the Term by written agreement of the Lessor and Lessee; or for default as described in Article 17, after any applicable cure period; or due to casualty as provided in Article 15; or as provided below in this Article or in Articles 5 or 31. If not otherwise specified, termination shall be effective 90 days after written notice of termination from the Lessor.

3.3 Termination if Premises Not Used for Homeless. Lessor shall have the right to terminate this Lease by written notice to Lessee if the Building is not completed by the date required under the last sentence of Section 2.2, or if within 90 days after that date there are not at least 75% of the units occupied by Tenants eligible under the terms of this Lease. In addition, Lessor shall have the right to terminate this Lease by written notice to Lessee if the Premises cease to be used for the homeless.

3.4 Extension of Lease. If this Lease shall be in full force and effect, the Lessee shall be in full compliance with the terms of this Lease, and the Building shall then be at least 90% occupied by Tenants eligible under the terms of this Lease, then at the option of the Lessee, exercisable by written notice to the Lessor no more than one year and no less than 180 days before the scheduled expiration of the Term of this Lease, the Term of this Lease shall be extended for an additional 25-year period. This option to extend may be exercised only twice, so that the total Term of this Lease shall not exceed 110 years.

4. RENT AND OTHER CHARGES

4.1 Rent. Lessee shall pay Lessor base rent for the Premises during the Term at the rate of \$100 per year. Rent shall be due and payable by Lessee to Lessor on the Effective Date of the Lease for the first year of the Term and subsequently payable by Lessee on each anniversary of the Effective Date of the Lease. Lessee reserves the right to prepay the entire Term or portions thereof, but no acceptance of prepayment shall affect the right of the Lessor to terminate this Lease upon the circumstances set forth herein, and there shall be no right to any rebate of prepaid rent upon any such termination.

4.2 Other Charges. Lessee shall pay all other charges as set forth in Article 9. It is the purpose and intent of the parties and they agree that Rent payable hereunder shall be absolutely net to Lessor so that this Lease shall yield to Lessor the Rent specified, free of any charges, assessments, or impositions of any kind charged, assessed, or imposed on or against the Premises, and without abatement, counterclaim, deduction, defense, deferment, or set-off by the Tenant, and Lessor shall not be expected or required to pay any such charge, assessment or imposition, or be under any obligation or liability hereunder except as herein expressly set forth. The foregoing notwithstanding, if Lessor shall be subject to property taxes on the Premises, the Lessor, not the Lessee, shall be obligated for such taxes.

5. PREMISES; USE

5.1 Use of Premises.

(a) Lessee agrees that, except as otherwise expressly provided herein, the Premises shall be solely devoted to developing and operating a residential Building for homeless persons (including community space, landscaping, gardens, playgrounds, and other open space available to the residents), and for related services to the homeless persons as may be approved by the Lessor and as may be consistent with applicable federal or state laws and regulations.

(b) Any nonresidential space in any buildings on the Premises shall be used solely for services to the homeless persons residing on the Premises unless otherwise expressly agreed in writing by the Lessor. Lessee shall maintain and produce for inspection and copying upon demand by the Lessor or HUD records demonstrating compliance with this Section.

(c) At all times during the Lease, unless otherwise approved in writing by the Lessor, all usable space in the Improvements on the Premises shall be used for purposes that qualify as the necessary support of the poor or infirm, as authorized under Article VIII, Section 7 of the Washington State Constitution.

5.2 Supportive Services for Homeless.

Lessee shall provide supportive services to all residents of the Premises. The supportive services model shall include, at a minimum, case management. In addition, Lessee shall cause culturally-appropriate services including but not limited to alcohol and other drug abuse treatment, mental health services, and healthcare benefits coordination according to the needs of Tenants, consistent with the Application. These additional services shall be provided through a contract with United Indians acceptable to the Lessor, unless the Lessor shall approve a substitute contractor. Should United Indians be unable or unwilling to provide appropriate services, and should no acceptable substitute contractor be available, then Lessee shall directly provide culturally-appropriate services.

5.3 **Inability to Continue Use for Homeless.** If Lessee is unable to continue operating any part of the Premises consistent with this Lease due to unavailability of sufficient operating funds, then Lessee shall inform Lessor in writing and Lessee shall have no liability in damages to Lessor for the failure to continue such use. Upon such notification, Lessor shall then have the right to terminate this Lease, by 30 days' written notice to Lessee.

6. OWNERSHIP OF IMPROVEMENTS AND PERMISSION OF LESSOR

6.1 **Title to Improvements and Personal Property.** Lessee shall hold title to the Building and any other Improvements constructed on the Premises. Lessee's title to all

Improvements and Personal Property shall be subject to all the terms and conditions of this Lease, including without limitation the reversion of all Improvements to the Lessor upon termination. Lessee shall have no right to remove, destroy, damage, or alter any Improvement or portion thereof, nor to permit any person to do any of the foregoing, without the express written consent of the Director. At the expiration of the Term, or if this Lease is earlier terminated as provided under this Lease, the Improvements, together with all related Personal Property, shall become the property of Lessor without any payment by Lessor; provided, the Lessor may require the Lessee to remove, within 10 days after notice to Lessee, at Lessee's sole expense, any fixtures or structures on or under the Premises that were constructed, affixed, or substantially modified without the approval of the Lessor or in violation of applicable laws, regulations, or Codes, or that were permitted by Lessor on condition that they be removed upon the Lease expiring or terminating.

6.2 Permission of Lessor. Subject to any restrictions on the Premises reserved in the conveyance by the United States, the Director shall not unreasonably withhold permission for Lessee and its contractors and subcontractors to engage in any excavation or construction activities reasonably necessary to construct, repair, alter, or improve the Improvements contemplated by this Lease, consistent with Construction Plans acceptable to the Director. Lessor agrees to timely review and respond to requests for approvals or permissions for related excavation and construction as may be necessary under this Lease or as may be necessary to secure building or other permits as may be required by applicable law. Lessor further agrees to cooperate with and permit the hook-up of any and all necessary utilities to the Building. However, Lessee shall obtain any and all necessary permits for utility hook-ups as required by applicable law.

7. MANAGEMENT AND OPERATION

7.1 Applicable Laws. The operation and management of the Premises by Lessee shall be conducted consistent with the requirements of applicable laws, regulations, and ordinances.

7.2 Property Manager. Beginning no later than commencing Building occupancy, Lessee shall ensure that there is competent on-site property management staff on duty at all times, 24 hours each day. Lessee may contract with one or more property managers with the written consent of the Director, to manage the Premises' operation consistent with this Lease, but no delegation of any duty or obligation to any property manager shall limit the responsibility or liability of Lessee hereunder.

7.3 Rules and Regulations. The Lessee agrees to observe, and to take all reasonable measures to cause Tenants and other persons allowed on the Premises to observe, such reasonable rules and regulations governing the Premises as the Lessor may promulgate from time to time, to the full extent such rules and regulations are permitted under applicable law.

8. DELAY IN PERFORMANCE

8.1 Force Majeure. Subject to Section 8.2, to the extent that delays in the performance of Lessee's obligations, including but not limited to developing plans and specifications, securing funding commitments or commencement, completing construction of the Improvements, and repairing or restoring the Improvements, are due to causes or events beyond Lessee's reasonable control and without its negligence, including but not restricted to, any delays or suspensions of construction compelled by court order, acts of God, acts of the public enemy, reasonably unforeseeable acts of a unit of local, state, or federal government, reasonably unforeseeable acts or omissions by other parties, fires, floods, labor strikes, or suspensions, embargoes, delays in or suspension or loss of essential utility services, loss of ingress or egress to the Premises, earthquake, volcanic event, earth movement, accident, war or military action, civil unrest, riot, unavailability of necessary materials for construction or repair, unusually severe weather, or delays of contractors or subcontractors due to such causes or events, the time for the performance of the obligation shall be extended, and Lessee shall not be considered in breach of its obligations under this Lease, for the period of the enforced delay if Lessee shall request an extension of time in writing from Lessor promptly and in any event within 30 days after Lessee becomes aware, or reasonably should have been aware, of the cause of any such delay. Failure of the Lessee to obtain sufficient funding for constructing new Improvements, after exercising its best efforts, shall be considered a cause beyond Lessee's reasonable control under this Section, provided that Lessee shall be continuing diligent efforts to obtain such funding.

8.2 Certain Termination Rights Not Affected. Nothing in this Article shall affect the right of the Lessor to terminate this Lease if otherwise authorized under Section 3.3, Section 5.3, Article 15, Article 17, or Section 31.3.

9. TAXES AND UTILITY CHARGES

9.1 Taxes. The Lessee shall pay, before delinquency, all taxes, levies, and assessments arising from its activities on or occupancy of the Premises, including, but not limited to taxes arising out of the activity or business conducted on the Premises such as the rental or sale of goods or services; taxes and other impositions levied on its property, equipment, and improvements on the Premises; and taxes on the Lessee's interest under this Lease and any leasehold interest deemed to have been created thereby under Chapter 82.29A RCW. If the State of Washington makes any demand upon the City as Lessor for paying leasehold excise taxes resulting from the Lessee occupying the Premises or withholds funds due to the Lessor to enforce leasehold excise taxes collection, the Lessee shall, at its sole expense, contest such action and indemnify the Lessor for all sums expended by, or withheld by the State from, the Lessor in connection with such taxation.

9.2 Utility Charges. The Lessee, at the Lessee's sole expense, shall pay for, when due, all costs for providing all utilities and other services on or to the Premises, including but not limited to, elevator service, electricity, gas, water, telephone and other communications

services, sewer, surface water management, and other charges customarily billed with property taxes, garbage, recycling, heating, and janitorial, and shall also pay all charges for new connections to water or sewer mains required in connection with the constructing, rehabilitating, modifying, or using the Improvements. The Lessor shall be responsible for installing or improving water or sewer mains, drainage facilities and electricity lines to the Premises if required for the purposes of the uses contemplated by this Lease, but shall not be responsible for connections, meters and related installations that would be the responsibility of the owner or developer of a building on private property according to standard policies of the City for utilities. Lessor's installations and improvements shall be made, to the extent required, in time to serve new Improvements constructed on the Premises in accordance with this Lease. The Lessor shall not be liable for any injury, loss, or damage caused by or resulting from any interruption or failure of utility services due to any causes whatsoever except the Lessor's gross negligence or breach of this Lease. The Lessee shall not be entitled to an offset, reduction, or return of Rent as a result of any interruption or failure of said services.

9.3 No Charges for Service to Other Property. Nothing contained herein shall require Lessee to pay any gas, electrical, water, sewer, or any other charge for utility service furnished to parts of the Fort Lawton Property not conveyed to Lessee under the terms of this Lease.

9.4 Lessee's Right to Contest. Lessee shall have the right to contest or review by legal proceedings or in such other manner as may be legal, any tax, assessment, utility charge, or other governmental imposition mentioned above and to pay such items under protest; provided, that nothing in this Section shall be construed to restrain the exercise of any remedy by any City utility for nonpayment, and provided further that notwithstanding any protest or challenge Lessee shall timely pay such amounts as are necessary to avoid interruption in service, including any interruption that would occur from application of the normal policy or procedure of any City utility.

10. ALTERATIONS; CONDITION AND CARE OF PREMISES

10.1 General Condition. The Lessee shall at all times keep the Premises in a neat, clean, safe, and sanitary condition, and shall use and maintain the Premises in accordance with the laws of the State of Washington and the Charter, ordinances, and Codes of The City of Seattle, and in accordance with all valid rules and regulations of the Director of the Department of Public Health of Seattle & King County ("Health Officer"), Fire Marshal, Director of SDCI, and other appropriate officers of The City of Seattle, including without limitation those laws, regulations, ordinances, and Codes applicable to public health, public safety, noise, and nuisance. The Lessee shall comply with the previous sentence at the sole cost and expense of the Lessee, except as otherwise expressly provided herein. The Lessee shall not cause or permit any waste, damage, or injury to the Premises, or permit anything to be done upon the Premises that in any way will tend to create a nuisance.

10.2 Lessee Accepts Premises AS IS.

(a) Lessee has fully inspected the Premises. Lessee is fully familiar with the condition of the Premises. Lessee accepts the Premises **AS IS**, in their condition on the Effective Date, and **ASSUMES THE RISK** of any defects in the condition of the Premises and of all the matters set forth below. Lessor makes **NO WARRANTIES OR REPRESENTATIONS OF ANY KIND**, except as follows:

(1) Lessor has provided Lessee with copies of all documents in Lessor's possession pertaining to the United States' transfer of interest in the Fort Lawton Property to Lessor that restrict or condition the Lessee's use of the Premises.

(2) To the best of the knowledge of the Housing Director of Lessor, Exhibit E is a complete list of the reports, studies, and assessments regarding the environmental condition of the Premises or any abatement or remediation of any environmental conditions of the Premises that were provided by the DoD and HUD to the Lessor in connection with the transfer of the Premises to the Lessor, or were undertaken by Lessor or by third parties on Lessor's behalf. Lessor does not represent or warrant that the information in any such documents is complete or accurate.

(3) The Housing Director has no actual knowledge, obtained after the date of the recording of the Army Deed that there is any condition of the Premises not reasonably discoverable by the Lessee and not disclosed in any of the reports listed on Exhibit E or otherwise disclosed to the Lessee that would have a material adverse effect on the use of the Premises for the purposes intended by this Lease.

(b) Without limiting the generality of the foregoing paragraph, Lessee agrees that, except as may be specifically set forth in this Lease, neither Lessor nor any person for whom Lessor may have any responsibility makes any representation, warranty, or promise of any kind with regard to any of the following: (1) the physical condition of the Premises or improvements (land, buildings, fixtures, or infrastructure), whether or not readily determined by inspection; (2) the presence or absence of any underground tanks or any hazardous or defective substances or conditions on or about the Premises, or on adjacent properties; (3) the history of the Premises or activities that may have occurred or been conducted thereon or thereunder; (4) soils conditions or drainage; (5) square footage of land or buildings; (6) encroachments; or (7) location or condition of utility lines.

(c) Except as otherwise expressly provided in this Lease, Lessee hereby irrevocably releases and waives any and all claims that Lessee has or may have hereafter against Lessor with respect to the condition of the Premises or arising pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or the Washington State Model Toxics Control Act, as amended.

(d) Lessee agrees that the Lessor shall have no liability or obligation as a result of any defect or condition of the Premises, including without limitation latent defects,

except for any defect created by the negligent act or omission of Lessor or its contractors, employees, or agents after the date of recording of the Army Deed. Lessee acknowledges that the Housing Authority of the City of Seattle (“SHA”), a public body corporate and politic and not an agency or instrumentality of Lessor, has undertaken certain work on the Fort Lawton Property, including the Premises, in preparation for development and construction activities, and Lessee agrees that SHA and its contractors, employees, and agents shall not be considered contractors, employees, or agents of Lessor. The Lessor shall have no obligation for any repairs, maintenance, or work of any kind except as expressly set forth in this Lease.

(e) Lessee and Lessor acknowledge that this Section has been specifically bargained for and that Lessor would not be willing to lease the Premises on the terms and conditions set forth herein without Lessee’s agreement to the terms of this Section.

10.3 Alterations.

(a) The Lessee shall not make, or cause to be made, any alteration, addition, or improvement in the Premises, including without limitation installing, removing or modifying fencing or landscaping, without first obtaining the written consent of the Director for such work. The Director’s approval of alterations, additions, or improvements expressly contemplated by this Lease shall not be unreasonably withheld, provided the Lessee demonstrates the availability of sufficient financial resources to complete such alterations, additions, or improvements. Ordinary repairs and any non-structural alteration of any structure that, together with all other items of the same nature during the calendar year, cost less than \$15,000, and emergency repairs immediately necessary for the usual and customary usage of the Premises, in each case if at the sole expense of Lessee, shall not require such prior written consent. Except for actions of the Lessor under Article 32, and except for any repairs required as a direct result of any damage to the Premises by Lessor after the date of this Lease, all alterations, additions, and improvements made shall be at the sole cost and expense of the Lessee, and unless otherwise agreed in writing by the Director, shall remain in and be surrendered with the Premises as a part thereof at the expiration or termination of this Lease, without disturbance, molestation, or injury.

(b) The Lessor reserves an unqualified right to make repairs or alterations to the Premises or to the buildings thereon (i) where conditions deemed by the Director to constitute an emergency exist; or (ii) after prior written notice to Lessee requesting Lessee to make such repair or alteration in order to correct deficiencies in compliance with any applicable law, regulation or Code. Lessee shall reimburse Lessor on demand for the cost of any such repairs or alterations if made after the Lessee shall have failed or refused to do so. The Lessor also reserves the right to make general alterations to the Premises or to any buildings thereon at no cost to Lessee where such general alterations will not unreasonably interfere with the ordinary operation or use of the Premises or such building by the Lessee.

(c) If at any time after the Building has been placed in service, the Building shall, in the Lessor’s reasonable judgment, immediately require an extraordinary

capital improvement (such as replacement of a major building system), and sufficient funds are not available in the Lessee's capital reserves for such purpose, then the Lessor may make such capital improvement, and may require that the Lessee contribute all available funds in Lessee's capital reserves toward the cost of such capital improvement, subject to any approval required by any funding agreement approved in writing by the Lessor.

(d) During any alteration or construction, the Lessee shall secure and provide on-site containers for collecting waste materials, debris, and rubbish associated with work. The Lessee shall keep the work site and all adjacent property free from the accumulation of waste materials, rubbish, and windblown debris and, on a daily basis shall dispose of all flammable, hazardous, and toxic materials generated by or otherwise associated with the work. Storage and disposal shall be in accordance with Title 40 CFR, WAC Ch. 173-303, Title 49 CFR, and state and local fire codes and regulations. Lessee shall ensure that all waste materials, debris, and rubbish generated by or otherwise associated with any work on the Premises shall be disposed of legally at disposal areas away from the Premises.

10.4 Access. The Lessor reserves for itself, its officers, employees, agents, and contractors, free access to said Premises, including the buildings thereon, at all reasonable times for the purpose of inspecting, cleaning, or making repairs, additions, or alterations to the Premises or any other property owned by or under the control of the Lessor, but this right shall not be construed as an agreement on the part of the Lessor to make said inspections, or to clean or make repairs, additions, or alterations.

10.5 Signs. Lessee shall not display, inscribe, paint, or affix to any part of the Premises any sign except those indicating the name of Lessee and the names and nature of the programs, services, and facilities provided by Lessee and United Indians on the Premises, without approval in writing by the Director prior to such placement.

10.6 Keys. Lessee shall provide the Director with one key for each exterior door lock of the Building immediately after the Building has been completed.

10.7 Equipment; Personal Property. All equipment and all appliances such as dishwashers, stoves, refrigerators, washers, and dryers located on the Premises shall be maintained and repaired by the Lessee at no cost to the Lessor.

10.8 Contracting for Alterations, Maintenance, Repairs, and Construction. Lessee shall ensure that all contracts and subcontracts for any alterations, maintenance, repairs, and construction activities (including contracts for related professional services), including without limitation the initial construction of the Building and related Improvements, shall be made, entered into, and performed in full compliance with all applicable laws, regulations, ordinances, fund source requirements, and the terms of this Lease (collectively, "requirements"), whether such contracts are let or made by the Lessee or by any other person. Lessee shall ensure under all such contracts and subcontracts that work shall be performed by licensed and qualified contractors, and that wages and benefits shall be paid in compliance

with all applicable requirements. Lessee shall defend, indemnify, and hold harmless the Lessor and its officers and employees from any claim, demand, liability, or cost (including attorney's fees) resulting from any failure by Lessee to ensure compliance as set forth in this Section.

10.9 Hazardous Waste or Materials.

(a) Restriction on Use; Response Plan; Definition. Lessee shall not dispose of or otherwise allow the release of any hazardous substances in, on or under the Premises, or any adjacent property, or in any Improvements placed on the Premises. Lessee represents, warrants, and agrees that Lessee's uses of the Premises (including uses by Tenants, invitees, or licensees) shall not involve the use, production, disposal, or bringing onto the premises of any hazardous substances, except for cleaning and maintenance supplies normally used in operating similar buildings that shall be used, stored, and disposed of in compliance with all applicable laws, regulations, and prudent practices. Lessee understands and agrees that flammable or hazardous substances, except those items necessary for constructing and normally and reasonably maintaining and operating the Building are not allowed on the Premises without the express written permission of the Lessor. Regardless, Lessee shall handle and dispose of all hazardous materials in accordance with all applicable laws. Prior to bringing any hazardous substance onto the Premises, Lessee shall prepare and submit to the Lessor a hazardous materials response plan, acceptable to the Lessor. Lessee shall comply fully with such plan at Lessee's sole expense. As used herein, the term "hazardous substances" includes asbestos, polychlorinated biphenyls, petroleum products, lead, explosives, paint, resins, solvents, and any substance, waste, or material defined or designated as hazardous, toxic, or dangerous (or any similar term) by any federal, state, or local statute, regulation, rule, or ordinance now or hereafter in effect, including, but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. and the Model Toxics Control Act, RCW 70.105D.

(b) Receipt of Information. Lessee acknowledges that it has received a copy of each of the documents listed in Exhibit E.

(c) Compliance. Lessee shall promptly comply at Lessee's expense with all statutes, regulations, and ordinances, and with all orders, decrees, or judgments of governmental authorities or courts having jurisdiction, relating to the use, collection, treatment, disposal, storage, control, removal, or cleanup of hazardous substances in, on, or under any other part of the Premises or any adjacent property if resulting from a release caused by the act or omission of Lessee or any of its employees, agents, contractors, Tenants, licensees, or invitees.

(d) Rights of Lessor. After notice to Lessee and a reasonable opportunity for Lessee to effect such compliance, Lessor may, but is not obligated to, enter upon the Premises and take such actions and incur such costs and expenses to comply with any applicable laws, regulations, or guidelines regarding hazardous substances as the Lessor

deems advisable to protect its interest in the Premises, provided that Lessor shall not be obligated to give Lessee notice and an opportunity to effect such compliance if such delay may reasonably result in material harm to the City, the Tenants, providers, the public, or the United States and either (i) Lessee has already had actual knowledge of the situation and a reasonable opportunity to effect such compliance; or (ii) Lessor deems that an emergency exists. Whether or not Lessee has actual knowledge of the release of hazardous substances, Lessee shall reimburse Lessor on demand for the full amount of all costs and expenses incurred by Lessor in connection with compliance activities with respect to hazardous substances for which Lessee has responsibility under subsection 10.09 (c) of this Lease, and such obligation shall continue even after the Assignment or termination of this Lease.

(e) Lessee's Duty to Notify and Cooperate; Response to Release. Lessee agrees to cooperate in any environmental assessments conducted by the Lessor's staff or independent third parties. Lessee agrees to provide the Lessor with notice of every governmental inspection of the leased Premises, notice of violation, and order to clean up contamination, within 5 days after the receipt thereof by Lessee. Lessee agrees to permit the Lessor to participate in all settlement or abatement discussions. In addition, Lessee shall notify Lessor immediately of the presence or release of any hazardous substances as described in subsection (c) of this Section (other than hazardous substances permitted under subsection (a) that are stored, used, handled, and disposed or in compliance herewith) and shall take timely and appropriate steps to protect persons and property from, and remedy the effects of, any such hazardous substances, which steps shall include immediate action in the case of any material release of hazardous substances.

(f) Removal Upon Surrender. Upon surrender of the Premises to the Lessor, whether upon expiration or earlier termination of this Lease (in whole or in part), Lessee shall remove and properly dispose of any hazardous substances that were introduced into, or released on, in or under, the Premises at any time during the Term hereof, whether by Lessee, or any of its employees, agents, contractors, Tenants, licensees, or invitees, or any other person except for the Lessor or its employees, agents, or contractors.

(g) Indemnity. Lessee agrees to defend, indemnify, and hold harmless Lessor against any and all losses, liabilities, suits, obligations, fines, damages, judgments, penalties, claims, charges, clean-up costs, remedial actions, costs, and expenses (including, without limitation, consultants' fees, attorneys' fees, and disbursements) that may be imposed on, incurred, or paid by, or asserted against Lessor or its officers or employees or the Premises by reason of, or in connection with (i) any misrepresentation, breach of warranty, or other default by Lessee of any obligation in Article 10; (ii) the acts or omissions of Lessee or any of its employees, agents, contractors, Tenants, licensees, or invitees, resulting in the release of any hazardous substances (unless such release is directly caused by Lessor, its employees, agents, or contractors as such licensee or invitee); (iii) any actual or alleged injury, illness, death, or damage to any person resulting from the presence or release of any hazardous substance in, on, or under the Premises (unless such presence or release is directly caused by Lessor, its employees, agents, or contractors); or (iv) any off-site disposal, handling,

treatment, storage, or transportation of any hazardous substances, including petroleum products, removed from the Building or Premises by Lessee or its contractors or subcontractors. This indemnity provision shall survive termination or expiration of this Lease.

(h) No Waiver of Federal Obligations; Notices and Enforcement by Lessee. Nothing in this Section shall be construed to relieve the United States government or any department thereof from any liability or responsibility with respect to hazardous substances. If Lessee becomes aware of any hazardous substance condition, or any complaint, notice, or claim related to any hazardous substance(s), with respect to which the United States or a department thereof may have any obligation pursuant to the terms of the Army Deed or pursuant to applicable law, the Lessee shall give written notice of the pertinent facts, together with a copy of any written complaint, notice, or claim, to the Director and to the United States Department of the Army as soon as practicable and in any event not later than 90 days after learning of any such condition or 15 days after receiving any such complaint, notice, or claim, whichever is earlier. Lessee shall provide the United States Army, and any other agency responsible for investigating, remediating, or defending the matter, all additional documents and cooperation requested or required by the terms of the Army Deed or by law. To the full extent permitted by the terms of the Army Deed and applicable law, the Lessee shall have the right, after consultation with Lessor, to make demand on the United States to fulfill its obligations with respect to any hazardous substances discovered in, on, or under the Premises and to enforce such obligations in its own name, provided that (i) Lessee shall not waive or release any rights without the express written consent of the Director; (ii) Lessee shall send copies of all related correspondence to the Director immediately upon sending or receiving thereof by Lessee; and (iii) Lessee shall not request or authorize any excavation, demolition, or other response action without the written consent of the Director if such action could reasonably adversely affect any Improvements on the Premises or any utilities on, in, or under the Premises, or if such action could reasonably interfere materially with the use of any portion of the Premises for the purposes intended by this Lease.

(i) Mutual Obligations to Cooperate Regarding Federal Environmental Obligations. If any circumstances arise that would provide reasonable grounds for enforcing any obligations (including without limitation indemnities) of the United States regarding environmental matters in the Army Deed, or any obligations of the United States with respect to the Premises under applicable laws regarding environmental matters (either generally or with respect to base closures), and if Lessee or Lessor gives notice to the other of such circumstances and requests cooperation in pursuing such enforcement, then the other party shall cooperate in securing the benefits of such obligations. Nothing in this subsection (i) shall require either party (A) to expend funds except as authorized by its governing body, in its discretion; nor (B) to bring or join in any legal or administrative action if such party determines in good faith that such action would not be in the best interests of such party.

11. MAINTENANCE

11.1 Protection and Maintenance Obligations of Lessee.

(a) Lessee shall at all times keep the Building, other Improvements and the Premises in a neat, clean, safe and sanitary condition; shall not cause or permit waste, damage or injury; and shall use and maintain the Building and other Improvements in accordance with the laws of the State of Washington and Charter, ordinances and Codes of The City of Seattle, and in accordance with all valid rules and regulations of the Health Officer, Fire Marshal, Director of Planning and Development (“SDCI”) and other appropriate officers of The City of Seattle. Lessee shall maintain and repair or replace as necessary all Building components, systems, fixtures, and equipment, including without limitation appliances in individual units and equipment for the central kitchen. Lessee shall maintain and clear as necessary all drainage systems, shall keep walkways, steps, ramps, and parking areas free of snow, ice, and debris and otherwise in safe and clean condition. Lessee shall maintain in good, safe, and neat condition, and replace as necessary, all landscaping and screening on the Premises installed in connection with the development of the Building, shall maintain and trim as reasonably required all vegetation on the Premises.

(b) Lessee shall comply with this Section and Section 10.1 at the sole cost and expense of the Lessee, except as otherwise expressly provided herein. The Lessee shall not cause or permit any waste, damage, or injury to the Building.

(c) Unless otherwise agreed in writing by Lessor, Lessee, and not Lessor, shall be responsible for the prompt removal of any rubbish deposited on the Premises by Lessee or by Tenants, licensees, or invitees, including without limitation any abandoned automobiles or appliances, and for any grounds maintenance or restoration required as a result of the acts of Lessee or the Tenants, licensees, or invitees of Lessee.

11.2 Lessor's Right to Initiate Repairs and Maintenance. If the Lessee fails to perform maintenance or to make repairs required to be made pursuant to Section 11.1 of this Lease or shall fail to maintain the Premises as required by Section 10.1 of this Lease, the Lessor may give notice to the Lessee specifying the necessity of such maintenance or repairs. If the Lessee fails to commence such maintenance or repairs within a reasonable time not to exceed 30 days after the giving of such written notice, or shall fail to finish said maintenance or repairs within a reasonable time from and after said maintenance or repairs are commenced, which shall in no event exceed 180 calendar days from said date without the written consent of the Lessor, the Lessor, in addition to any other remedies provided for herein, may make or cause such maintenance to be performed or repairs to be made at the expense of the Lessee. The Lessee shall pay the Lessor for the cost of such maintenance or repairs within 10 days of receiving a billing from Lessor. The Lessor shall not be obligated or have any responsibility to maintain the Premises, or to maintain, repair, or replace the Improvements.

12. COMPLIANCE WITH LAWS AND FEDERAL REQUIREMENTS

12.1 General Requirement. The Lessee, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Washington; the Charter, ordinances, and Codes of The City of Seattle; the rules, regulations, orders, and directives of their administrative agencies and officers thereof; and all requirements associated with any fund source for the improvement of, or operations on, the Premises. Lessee shall take all reasonable measures to cause its Tenants, and each of their invitees and licensees, to comply with all requirements of all of the foregoing.

12.2 Licenses and Similar Authorizations. The Lessee, at no expense to the Lessor, shall secure and maintain in full force and effect during the term of this Lease, all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

12.3 Nondiscrimination and Affirmative Action.

(a) Fair Housing and Other Nondiscrimination Laws. Lessee agrees to and shall comply with, and shall require any person managing or operating any part of the Premises or any Improvements thereon, to comply with, all Federal, State and local laws and ordinances, including without limitation Fair Housing Laws, prohibiting discrimination with regard to race, color, national origin, age, “families with children status,” ancestry, creed, religion, political ideology, sex, sexual orientation, gender identity, marital status, the presence of any sensory, mental, or physical handicap or the use of a guide or service animal by a person with a disability. Without limiting the generality of the foregoing, Lessee shall ensure that the Building is operated and all units therein are rented and advertised on terms and conditions that satisfy the requirements for “housing for older persons” under the Federal Fair Housing Act and HUD regulations thereunder, and Lessee shall maintain complete and accurate records to demonstrate that such requirements are satisfied.

(b) Equal Employment Opportunity and Nondiscrimination. The Lessee shall comply with, and shall require all contractors and subcontractors to comply with, all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including but not limited to Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code (SMC), as they may be amended; and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

12.4 Lead-based Paint. Lessee shall comply with all requirements of applicable laws and regulations with regard to lead-based paint.

12.5 U.S. Government and Funding Agency Restrictions. Lessee agrees to comply, and to take all reasonable measures to cause each Tenant, and all invitees or licensees of Lessee or any Tenant, to comply with the terms and conditions of all covenants and restrictions imposed by the United States related to the transfer of the Fort Lawton Property to the Lessor, and of all agreements now or hereafter entered into by the Lessee for the funding

of the Improvements; the construction, maintenance, repair, or rehabilitation thereof; or the operations thereof. Without limiting the foregoing, Lessee agrees that as between Lessee and Lessor, each and every covenant of "Grantee" in Army Deed from the United States to the Lessor for the Premises, as such covenant relates to the Premises, for so long as this Lease remains in effect, shall be the obligation of Lessee, and that Lessee shall defend and indemnify Lessor from any liability, loss, damage, or expense (including attorneys' and experts fees) arising from Lessee's breach of any such obligation. Lessee acknowledges that prior to executing this Lease the Lessee has reviewed the Army Deed.

13. LIENS

13.1 If, because of any act or omission of Lessee, any valid and non-frivolous mechanic's or other lien or order for payment of money shall be filed against the Premises or the Improvements, Lessee shall at its sole expense cause the same to be discharged or bonded within 30 days after the date of such filing.

14. LIABILITY AND INSURANCE.

14.1 Indemnity. To the full extent permitted by applicable law, the Lessee hereby releases the Lessor from, and shall indemnify and hold the Lessor harmless from, any and all losses, claims, actions, damages, and expenses arising or that may arise in the future out of or resulting from any occurrence, including without limitation any death or injury of or to any person, in or on the Building or the Premises, from any cause or causes whatsoever including without limitation latent defects existing at commencement of this Lease, except that this release and indemnity does not apply to the extent that claims, actions, loss, damage, or expense directly results from (a) the wrongful or negligent actions (not omissions) of the Lessor, its contractors, agents, and employees; or (b) the presence of any defect on the Premises for which Lessor is not relieved of liability by the terms of Section 10.2(d). Neither the approval by the Lessor of any action, omission or policy proposed by Lessee, nor the failure by the Lessor to enforce any obligation of Lessee, shall give rise to an exception from the foregoing release and indemnity. If any suit based upon such losses, claims, actions, damages, or expenses is brought against the Lessor, the Lessee, upon notice of the commencement thereof, shall defend the same by counsel satisfactory to the Lessor at Lessee's sole cost and expense (provided that the Lessor shall have the right to appear in and defend any such action by its own counsel); and if final judgment be adverse to the Lessor, or the Lessor and the Lessee jointly, or if the Lessor shall enter into a reasonable settlement of any such claim or action after notice to and consultation with Lessee, the Lessee shall promptly satisfy the same. Except as expressly set forth in this Section, the obligation of Lessee to indemnify the Lessor described in this Section shall not be diminished by the fact, if it be a fact, that any such death, injury, damage, loss, cost, or expense may have been contributed to, or may be alleged to have been contributed to, in part, by an act or omission of Lessor, its officers, employees, or agents, provided that to the extent that RCW 4.24.115 (or successor provision) applies, (1) this indemnity shall not apply in case of any liability for damages arising out of bodily injury to persons or damage to property caused or resulting

from the sole negligence of the Lessor, its agents, or employees; and (2) in case of liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) Lessor or its agents or employees, and (b) Lessee or its agents or employees, this indemnity shall apply only to the extent of Lessee's negligence.

14.2 Worker's Compensation. **Solely with respect to claims for indemnification under this Lease, Lessee waives its immunity under Industrial Insurance laws. This section has been negotiated by the parties as indicated by their initials below, and Lessee acknowledges that the Lessor would not enter into this Lease absent this Section.** Lessor may require as a condition to approval of any Assignment that the provisions of this Section be expressly incorporated in the Assignment for the benefit of the Lessor, but this Section shall be fully binding on any Assignee whether or not such provisions are set forth in the Assignment.

Lessor: _____

Lessee: _____

14.3 Insurance.

(a) Building Renovation and New Construction. The Lessee shall, at all times during the term of this Lease when any renovation or construction activity is in process on the Premises, obtain and maintain continuously, at its own expense, insurance as specified in this subsection (a), and shall file with the Director and the Lessor's Risk Manager, evidence of a policy or policies of insurance as enumerated below, covering such activity and each Building and Improvement affected by such activity:

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

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual Liability
- Independent Contractors Liability
- Stop Gap or Employers Contingent Liability
- Explosion, Collapse, or Underground (XCU), (as applicable)*
- Liquor Liability/Host Liquor Liability (as applicable)*
- Fire Damage Legal
- Per Location Aggregate CG2504

*These coverages are required only when the work on the Premises may include exposures to which these specified coverages respond.

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

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

Stop Gap or Employers Contingent Liability
\$ 1,000,000 Each Accident
\$ 1,000,000 Disease - Policy Limit
\$ 1,000,000 Disease - Each Employee

Lessee shall be responsible for any deductibles and any amounts of losses not covered due to coinsurance provisions. There shall be no deductible or self-insured retention except as expressly approved in writing by the Lessor's Risk Manager after consultation with Lessee. The cost of any claim payments falling within the deductible shall be the responsibility of the Lessee.

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

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

Bodily Injury and Property Damage -
\$ 1,000,000 per accident

(3) A policy of **Pollution Liability** providing coverage for claims (A) involving remediation, disposal or other handling of pollutants arising out of operations of Lessee or its contractors and subcontractors, including coverages generally known as "contractor's operations for others", and "contractor's site (owned)"; (B) arising from the transportation of hazardous materials; or (C) involving remediation, abatement, repair, maintenance, or other work with lead-based paint or materials and/or with asbestos or materials containing asbestos. Such Pollution Liability policy(ies) shall provide the following minimum limit:

Bodily Injury and Property Damage:
\$1,000,000 per occurrence

If any such policy is written on a claims made form, the policy shall state that coverage is claims made, and state the retroactive date, which shall be prior to or coincident with the date of this Lease. Claims made form coverage shall be maintained by the Lessee for a minimum of three years following the termination of the contract for the renovation or construction work, and the Lessee shall annually provide the Lessor with proof of renewal on or before each anniversary of the Effective Date of this Lease. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Lessee shall purchase an extended reporting period (“tail”) or provide another form of security acceptable to the Lessor to assure financial responsibility for liability that would be covered by such policy.

Such insurance, as provided under subsections (1), (2), and (3) above, shall be endorsed to include as additional insureds Lessee, its officers, directors, employees, agents, volunteers, and the City of Seattle, its officers, elected, and appointed officials, employees, agents, and volunteers, and shall not be reduced or canceled without 45 days prior written notice to Lessee and to the Lessor’s Risk Manager. In addition, the Lessee’s insurance shall be primary as respects the Lessor, and any other insurance maintained by the Lessor shall be excess and not contributing insurance with the Lessee’s insurance.

(4) A policy of **Worker’s Compensation**. As respects Workers’ Compensation insurance in the state of Washington, Lessee shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. If Lessee is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Lessee shall so certify by letter signed by a corporate officer indicating that it is a qualified self-insured and setting forth the limits of any policy of excess insurance covering its employees.

(5) A policy of **Builder’s Risk Insurance - Physical Damage Insurance**. Unless otherwise directed in writing by Lessor, the Lessee shall purchase and maintain property insurance, with Lessor as an additional insured, to include the perils of “All Risk”, including Earthquake and Flood coverage to the extent required by the City’s Risk Manager, for the full replacement value of the Improvements. Lessee shall be responsible for any deductibles and any amounts of losses not covered due to coinsurance provisions.

Lessor reserves the right to purchase Builder’s Risk insurance to include the perils of “All Risk” including (in Lessor’s discretion) Earthquake & Flood coverages. If Lessor gives notice to Lessee that Lessor shall maintain Builder’s Risk insurance, then Lessee shall be responsible for the Lessor’s policy deductible (currently \$10,000) and Lessee shall pay on demand to Lessor the amount of each premium billed to Lessor for such insurance. Lessee will be added as an additional insured to the policy.

Lessor and Lessee waive all subrogation rights against each other, their contractors, subcontractors, architects, architects’ sub-consultants, separate contractors, if any, and any of their subcontractors, for damages caused by fire or other perils to the extent that the loss that would be the basis for a subrogation claim is covered by property insurance obtained pursuant

to this subsection or other property insurance, except that Lessor and Lessee do not waive such rights as they have to proceeds of such insurance held by any person as fiduciary. This waiver shall not apply to the portion of any loss within the deductible of the applicable insurance policy. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

(6) **Insurance to Protect Lessee's/Contractor's Equipment.**

Lessee shall purchase and maintain physical damage insurance upon Lessee's and contractors' equipment for the actual cash value of such equipment as of the time of any loss. This insurance shall insure against loss from the perils of Fire, and other risks of direct physical loss or damage, also known as "All Risk" perils protection.

Lessee shall be responsible for any deductibles and any amounts of losses not covered due to coinsurance provisions.

(b) General Insurance Requirements. Lessee shall, at all times during the Term of this Lease, obtain and maintain continuously, at its own expense, insurance as required by this subsection (b), and shall file with the Director and the Lessor's Risk Manager, evidence of a policy or policies of insurance as enumerated below:

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

- Premises/Operations Liability
- Products/Completed Operations
- Personal/Advertising Injury, to include
 - Sexual Molestation*
 - Discrimination*
 - Sexual Harassment*
- Contractual Liability
- Independent Contractors Liability
- Stop Gap or Employers Contingent Liability
- Explosion, Collapse, or Underground (XCU) (as applicable)**
- Liquor Liability/Host Liquor Liability (as applicable)**
- Fire Damage Legal
- Per Location Aggregate CG2504

* Any reductions of limits for these coverages are subject to the Lessor's Risk Manager's and Lessee's agreement based on commercial availability and costs.

**These coverages are required only when the operations on the Premises may include exposures to which these specified coverages respond.

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

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

Stop Gap Employers Liability
\$ 1,000,000 Each Accident
\$ 1,000,000 Disease - Policy Limit
\$ 1,000,000 Disease - Each Employee

There shall be no deductible or self-insured retention except as expressly approved in writing by the Lessor's Risk Manager after consultation with Lessee. The cost of any claim payments falling within the deductible shall be the responsibility of the Lessee.

(2) A policy of **Business Automobile Liability**, including coverage for owned, non-owned, leased or hired vehicles written on an insurance industry standard form (CA 00 01) or equivalent. Such policy(ies) must provide the following minimum limit:

Bodily Injury and Property Damage -
\$ 1,000,000 per accident

(3) A policy of **Excess Insurance** above the primary general and automobile liability policies that will provide a total limit of insurance of \$5,000,000. The excess policy must be at a minimum as broad as the primary policies.

Such insurance, as provided under items (1), (2), and (3) above, shall be endorsed to include The City of Seattle, its officers, elected and appointed officials, employees, agents, and volunteers as additional insureds, and shall not be reduced or canceled without 45 days prior written notice to the Lessor's Risk Manager. In addition, Lessee's insurance shall be primary as respects the Lessor, and any other insurance maintained by the Lessor shall be excess and not contributing insurance with the Lessee's insurance.

(4) A policy of **Worker's Compensation**. As respects Workers' Compensation insurance in the state of Washington, the Lessee shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. If the Lessee is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Lessee shall so certify by a letter signed by a

corporate officer setting forth the limits of any policy of excess insurance covering its employees.

(5) A policy of **Property Insurance**. The Lessee shall keep the Improvements and Personal Property on the Premises insured throughout the term of the Lease, for their full replacement value, with Lessor named as an additional insured, against the following hazards:

(A) Loss or damage by fire and such other risks as the Lessor shall require (including earthquake and flood damage to the extent required by the City's Risk Manager) in an amount sufficient to permit such insurance to be written at all times on a replacement cost basis;

(B) Loss or damage from leakage or sprinkler systems now or hereafter installed in any structure on the Premises;

(C) Loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks, or similar apparatus now or hereafter installed in any structure on the Premises.

(D) Business Interruption with sufficient coverage to provide for the payment of rent and other fixed costs during any interruption of Lessee's business because of fire or other cause.

Lessor and Lessee waive all subrogation rights against each other, their contractors, subcontractors, architect, architect's sub-consultants, separate contractors, if any, and any of their subcontractors, for damages caused by fire or other perils to the extent that the loss that would be the basis for a subrogation claim is covered by property insurance obtained pursuant to this subsection or other property insurance applicable to the Premises, except that Lessor and Lessee do not waive such rights as they have to proceeds of such insurance held by any person as fiduciary. This waiver shall not apply to the portion of any loss within the deductible of the applicable insurance policy. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

(c) Contractors and Subcontractors. Lessee shall include all contractors and subcontractors as insureds under its policies or shall furnish separate evidence of insurance as stated above for its contractor or subcontractor. All coverages for its contractors and subcontractors shall be subject to all applicable requirements stated herein. Lessee may satisfy its obligations under this Section with respect to Pollution Liability (a)(3), Builder's Risk Insurance (a)(5), Lessee's/Contractor's Equipment (a)(6) and Property Insurance (b)(5) by causing insurance to be maintained by the contractors of Lessee, provided that such

insurance satisfies all of the requirements of this Section and that evidence of insurance as set forth below is timely provided to Lessor and is satisfactory to the Lessor's Risk Manager.

(d) Evidence of Insurance. The following documents must be provided to Lessor as evidence of insurance coverage at the following times if such documents are then available to, or in the possession of, Lessee: (i) prior to the Effective Date of this Lease, as to coverage required under subsection (b); (ii) prior to commencing work, as to coverage required under subsection (b) of this Section; and (iii) with respect to any renewal or substitute policy, promptly upon issuance thereof, but in any event no later than 10 days before the expiration or termination of any previous policy:

(1) A copy of the policy's declarations pages, showing the Insuring Company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements. (Lessor reserves the right to request certified copies of all insurance policies.)

(2) A copy of the endorsement naming The City of Seattle (and, with respect to liability policies, Lessor's officers, elected, and appointed officials, agents, employees, and volunteers) as an Additional Insured, showing the policy number, and signed by an authorized representative of the insurance company on a form CG2026 (ISO), or such other form as the City's Risk Manager may require or deem acceptable.

(3) A copy of the "Endorsements Form List" to the policy or policies showing endorsements issued on the policy, and including full copies of any company-specific or manuscript endorsements.

(4) A copy of an endorsement stating that the coverages provided by the policy to Lessor or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least 45 days prior written notice to the Lessor.

(5) A copy of a "Separation of Insureds" or "Severability of Interests" clause, indicating essentially that, except with respect to the limits of insurance and any rights or duties specifically assigned to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claim is made or suit is brought (Commercial General Liability, Business Automobile Liability Insurance, and Excess Insurance).

If any of the above documents is not available when required as stated above, the Lessor's Risk Manager may accept, in his or her discretion, a binder showing the stated requirements. In such case Lessee shall cause all the above documents to be delivered to the City as soon as available, and in any event within such period as the Lessor's Risk Manager shall specify.

In addition, within 5 days of any request by Lessor, the Lessee shall provide full copies of all insurance policies for the Premises, together with all amendments and endorsements and proof of premiums paid.

(e) Approval of Risk Manager; Adjustments. All policies shall be subject to approval by the Lessor's Risk Manager as to company (must be (i) issued by a company rated A- or better and with a size rating of VII or higher in the A.M. Best's Key Rating Guide; and (ii) licensed to do business in the State of Washington or issued as a surplus line by a Washington Surplus lines broker), form and coverage, and shall be primary to all other insurance. If Lessor shall determine that the required coverages and/or limits are not reasonably adequate for any reason, including without limitation inflation or changes in the nature or scope of activities on the Premises, then Lessee shall procure such coverage and/or increase in policy limits as the Lessor shall require, within 60 days of written notice from Lessor.

(f) Definitions. Capitalized terms used in this Section and not otherwise defined in this Lease shall have the meanings commonly ascribed to such terms in the insurance industry.

14.4 Contractors' Bonds. Unless otherwise expressly permitted in writing by the Lessor or not required by law, the Lessee shall require each contractor used by the Lessee for any demolition, rehabilitation, repair, or construction work on the Building or other Improvements, or in connection with any improvement, alteration, or addition to be made to any Improvements or to the Premises, to secure and maintain, at no cost to the Lessor, a performance and payment bond with dual obligee rider payable to the Lessee and the Lessor in the full and just sum of the total amount of the contract, conditioned that all the provisions of the contract shall be faithfully performed by the contractor, or the surety if so required, and for the payment of all laborers, mechanics, subcontractors, and material suppliers, and all persons who shall supply such person or persons or subcontractors with provisions or supplies for the carrying on of such work. Each such bond shall be provided to Lessor within 10 days of the award of the contract and in any event prior to commencement of any work. Each such bond shall be issued by a properly licensed surety company acceptable to the Lessor and shall be in form and content acceptable to Lessor.

14.5 Assumption of Risk. Subject to and except for Lessor's obligations under this Lease, the placement and storage of personal property on said Premises shall be the responsibility, and at the sole risk, of the Lessee.

14.6 Adjustments of Claims; Proceeds of Hazard, Builder's Risk, and Property Insurance. The Lessee shall promptly submit to its insurer and diligently pursue all claims for bodily injury, property damage or theft arising out of the activities of the Lessee under this Lease. Any amounts paid under any policy of insurance for the loss to, damage to, or destruction of all or part of the Premises or Improvements (during and after construction) shall be deposited in a trust account requiring the signature of the Lessor and Lessee for

disbursement. Except as otherwise provided in Article 15, all funds in such account, including interest earned thereon, shall be used solely for the restoration, repair, or replacement of the damaged or destroyed Improvements, according to Construction Plans to be prepared by the Lessee subject to the reasonable approval of the Lessor, and according to a construction contract acceptable to Lessor, whose acceptance shall not unreasonably be withheld.

14.7 Compliance by Lessee. Lessee shall not violate or permit to be violated any of the conditions or provisions of any insurance policies affecting the Premises or the Improvements.

14.8 Contractor's Indemnification. Lessee shall ensure that every contract executed by it pertaining to any construction, renovation or other work on the Premises shall contain the following indemnification provision:

The contractor agrees to protect, defend, indemnify, and hold harmless the City and City's officials, employees, and agents from and against all claims, demands, and causes of action (including all costs and fees for defense thereof), judgments and/or awards of damage arising from or in connection with the performance of this agreement by the contractor or from the activities of any subcontractor or other person or entity employed by or having a contract with the contractor:

(a) *Arising out of bodily injury or death to persons or damage to property, except this obligation shall not apply when such injury or damage is solely and entirely the fault of the City, or when such injury or damage results from the concurrent negligence of the City and the contractor, in which case the contractor shall protect, defend, indemnify, and hold the City harmless to the extent of the contractor's negligence.*

(b) *Arising out of other than bodily injury or death to persons or damage to property, except this obligation shall not apply when such injury or damage is solely and entirely the fault of the City.*

(c) *Arising from the use of any design, process, or equipment which constitutes, or is alleged to constitute, an infringement of any United States patent presently issued, or violates any other proprietary interest, including copyright, trademark, or trade secret.*

Contractor shall also hold the City harmless from any expense incurred to enforce the City's rights under this Section.

If any action is brought against the City by any employee of contractor, its subcontractors, sub-subcontractors, agents, or anyone directly or indirectly

employed by any of them the indemnification obligation of the contractor set forth in this Section shall not be limited by a limit on the amount or type of damages, compensation, or benefits payable by or for contractor or any subcontractor under RCW Title 51, the Industrial Insurance Act, or any other employee benefit acts. In addition, as to actions arising out of the performance of this agreement, contractor waives its immunity under RCW Title 51.

This indemnification agreement has been negotiated by the parties and shall survive the termination of this agreement.

14.9 Survival. Any liability of the Lessee hereunder for acts or omissions occurring during the Term of this Lease, or arising under any indemnity provision of this Lease, shall survive termination and surrender (whether or not any claim giving rise to such liability shall have accrued).

15. CASUALTY

15.1 Notice of Casualty; Reconstruction. If any Improvements, standing or erected, are destroyed or damaged in whole or in part as a result of fire, earthquake or any other casualty, Lessee shall give immediate written notice to Lessor. Except as otherwise expressly provided in Article 8 or this Article 15, or expressly agreed in writing by Lessor, if sufficient insurance proceeds are available, together with any capital reserves for the Premises that are not restricted under agreements with third parties approved by Lessor, or the use of which is permitted by such third parties, the Lessee shall proceed with reasonable diligence to prepare plans and specifications for, obtain any necessary permits for, and thereafter to carry out, all work necessary to repair or replace the Improvements or any portions thereof that were damaged or destroyed, in substantial conformity with the character of the Improvements existing immediately prior to the casualty. If insurance proceeds, together with capital reserves of Lessee and any other funds reasonably available are not sufficient for complete repair or restoration, then subject to the right of Lessee to terminate this Lease as provided in Section 15.5(b), (c), and (d), the Lessor may, at its option, require Lessee to pursue such partial repair or restoration as can be completed with the available funds.

15.2 Notice Prior to Commencement of Work. Lessee shall give Lessor at least 30 days' notice prior to the commencement of work described in Section 15.1.

15.3 Time for Commencement and Completion of Work. Subject to Article 8 and this Article 15, Lessee shall commence the work described in Section 15.1 within 120 days after the date of any loss, damage or destruction or as soon as funds are available. Lessee shall diligently pursue the work to completion and shall complete the work within a reasonable time, which shall be no later than 12 months after the date of the casualty unless delayed by events, conditions, or financing beyond the control of Lessee. Notwithstanding any such events, conditions, or any insufficiency of funds, and notwithstanding any other

provision of this Lease, the Lessor shall have the right to terminate this Lease by 90 days' written notice to Lessee if work described in Section 15.1 is not commenced within 24 months after the date of casualty, or is not completed within 36 months after that date. Upon such notice of termination, any insurance proceeds shall be disbursed according to Section 15.8.

15.4 Disbursements. For the cost of the repairs, replacement, or rebuilding, Lessor shall authorize disbursement of funds from the account established pursuant to Section 14.6, as Lessee shall make such repair, replacement, or rebuilding, and during the progress of the work, upon Lessee's written requisitions accompanied by certificates of an architect or engineer reasonably satisfactory to Lessor certifying that the work is in accordance with Construction Plans approved by Lessor and the percentage completion thereof, upon delivery of such other evidence as Lessor may reasonably require that such work is in place and paid for, and subject to holdback of 5% of the amount of each requisition until completion of the work. Lessor's authorization shall not be unreasonably withheld.

15.5 Termination for Certain Casualties.

(a) If the parties agree in writing that the Premises cannot be repaired or replaced, wholly or in part, within 24 months from the date of the occurrence of the fire or other casualty, and the Lessor does not elect to require partial restoration under Section 15.1, then prior to commencing any repair or replacement, either party may terminate this Lease by giving 90 days' written notice to the Lessor. Upon such notice of termination, any insurance proceeds shall be disbursed according to Section 15.8.

(b) If that the Improvements now or hereafter erected on the Premises shall be damaged or destroyed to the extent in excess of 50% percent of their then-insurable value and the damage or destruction shall occur after the 30th year in the Term or the casualty is not covered by insurance, then either party may at its option cancel and terminate the Lease by giving the other party 90 days' notice within 60 days after the date of any loss, damage or destruction. If such option is exercised by either party, the Lease shall wholly cease and expire on the date specified in the notice, in which event Lessee shall not be obligated to rebuild. Upon such notice of termination, any insurance proceeds shall be disbursed according to Section 15.8.

(c) If all or a portion of the Improvements are destroyed or damaged by casualty so that more than 50% of the Improvements are rendered unfit for occupancy, and any insurance proceeds, together with available capital reserves and any other funds made available by Lessor or any other government agency, are insufficient to restore or replace such Improvements, then except to the extent that the Lessor and Lessee agree in writing to apply available insurance proceeds to partial repair or restoration, and if the Improvements remaining shall be insufficient for the reasonable operation a residential facility for the homeless, either party may terminate the Lease with 90 days' notice. Upon such notice of termination, any insurance proceeds shall be disbursed according to Section 15.8.

(d) If all or a portion of the Improvements are destroyed or damaged by casualty, and no other subsection of this Section applies, and Lessor desires that insurance proceeds be applied to repair or restoration but Lessee determines that proceeding with repair or restoration would not be feasible or would be economically detrimental to Lessee, then Lessee may terminate the Lease with 90 days' notice, and shall have no obligation for repair or restoration. In such event, all insurance proceeds shall be applied first to pay or provide for payment of financial obligations secured by mortgages or deeds of trust approved by Lessor hereunder, including, without limitation, any such mortgages or deeds of trust held by Lessor, but not including any such obligations under which recourse is limited to the Premises if the holders thereof agree to the application of insurance proceeds to repair or restoration, and the remainder shall be applied to repair or restoration or shall be paid to Lessor, in Lessor's discretion. If there is termination under this subsection (d), the Lessee shall cooperate, without cost or liability of Lessee, in any assumption of any mortgages or deeds of trust and related obligations, and any subsidy contracts for the Premises, by any substitute lessee selected by Lessor.

15.6 Abatement of Rent. After any casualty, Rent shall be abated in the proportion that the untenable portion of the Premises bears to the whole Premises, in the Lessor's reasonable determination, for the period from the date of the fire or other casualty until either the completion of the repairs and restoration or the termination of this Lease as provided herein.

15.7 Lessor not Liable. Except to the extent resulting from Lessor's gross negligence, intentional misconduct or breach of this Lease, Lessor shall not be liable to Lessee for damages, compensation, or other sums for inconvenience, loss of business, or disruption arising from any repairs to or restoration of any portion of the Premises or to the termination of this Lease as provided herein.

15.8 Application of Insurance Proceeds not Applied to Repair or Restoration. If under the terms of this Article insurance proceeds are not required to be applied to restoration or repair; or if this Lease shall be terminated before all such proceeds are so applied; or if excess insurance proceeds remain after completing repair or restoration, then such proceeds shall be applied first, to pay or provide for payment of financial obligations secured by mortgages or deeds of trust approved by Lessor hereunder (including, without limitation, any such mortgages or deeds of trust held by Lessor); second, to pay for such work as may be required to remove damaged or destroyed improvements and put the Premises in a condition substantially as at the commencement of the Lease Term, or such lesser scope of work as in the reasonable judgment of the Lessor is necessary to make the remaining Improvements and Premises safe and in compliance with applicable laws and ordinances; and third, and the balance, if any, shall be distributed as follows: if the casualty loss occurs during the first 10 years of the Lease, then 100% to Lessee, and otherwise the Lessor shall receive 1% of such balance for each full year after the tenth year of the Term that has passed prior to the date of the casualty loss; and the Lessee shall receive the remaining amount.

16. INSPECTION

16.1 Premises. Lessee shall permit Lessor, its agents, and employees, to enter the Premises and Improvements at reasonable hours for the purpose of inspecting them or (at Lessor's sole option) making repairs that Lessee may neglect or refuse to make in accordance with the terms, covenants, and conditions of the Lease. Except if there is an emergency affecting health or safety, Lessor shall not enter any occupied dwelling units without giving such advance notice to Lessee as is specified by applicable law for a landlord's notice of entry for inspection or repair. Upon receiving any such notice from Lessor, the Lessee shall promptly give proper notice under applicable law to Tenants whose units are to be subject to entry. Lessee's permission shall not constitute any indemnity nor create any liability concerning claims or causes of action by Tenants related to such entering or inspection, except that Lessee shall indemnify Lessor for any liability, loss, damage, or expense to Lessor resulting from any failure by Lessee to include, in any sublease or other agreement with a Tenant, the rights of Lessor contemplated by this Section. Except as stated in the previous sentence, Lessor shall hold harmless, defend, and indemnify Lessee from any liability for injury or death to persons or damage to property, in each case to the extent directly resulting from the wrongful or negligent actions (not omissions) of the Lessor, its agents, and employees in the course of such entering or inspection.

16.2 Records. Subject to and without impairment or waiver of any rights of Tenants or Lessee under applicable law, Lessee shall also permit Lessor, its agents and employees, to inspect and copy all records of the Premises and Improvements as may be compiled or maintained by Lessee for purposes of Lessee's operations under this Lease. Lessor shall have the right to inspect and copy such records maintained on or outside the Premises upon reasonable advance notice to Lessee.

17. DEFAULT

17.1 Default; Cure Periods, Termination. Upon the occurrence of any of the Events of Default hereinafter described, Lessor, at Lessor's option, may terminate this Lease or any extension of it, as well as all right, title and interest of Lessee thereunder by giving Lessee at least 90 days' notice in writing of said termination, and may pursue and enforce all legal rights and remedies set forth in this Lease or otherwise available at law or in equity. Upon the expiration of the date and time fixed in the notice of termination, all right, title, and interest of Lessee under this Lease, shall wholly cease and expire. Lessee shall then immediately surrender to Lessor the Premises and all Improvements and Personal Property, as more fully set forth in Article 20. Each of the following is an Event of Default:

A. Failure to pay when due any amount of Rent owing on the Lease, that is not cured within 30 days after notice to Lessee;

B. Any failure to pay when due any other charge required by this Lease other than amounts referred to in subsection A above that is not cured within 30 days after notice to Lessee;

C. Any failure to submit the annual report required by Article 34 of this Lease that is not cured within 30 days after notice to Lessee;

D. Any breach of Article 18 or Article 21 of this Lease (relating to assignments and transfers of the Premises without consent and certain other matters);

E. Except as provided under Article 8, any breach or nonperformance of any provision of any of the Lease not included within any of subsections A-D above that is not cured within 30 days after notice to Lessee of such breach or nonperformance, or such longer cure period as may be permitted under the specific terms of the Lease, provided that if any such breach or nonperformance cannot reasonably be cured within 30 days but can be cured within a reasonable time, there shall be no Event of Default under this subsection E for a period of up to 6 months so long as Lessee shall diligently pursue a cure;

F. The filing of a voluntary petition for bankruptcy or reorganization by any manager or managing member of any Lessee that is a limited liability company, or any general partner of a Lessee that is a partnership; the filing against any such manager, managing member, or general partner of Lessee of any complaint for receivership or involuntary petition for bankruptcy or for reorganization (unless such complaint or petition be dismissed within 45 days of such filing); or if Lessee or any such managing member, manager, or general partner of Lessee shall become insolvent, or make a general assignment for the benefit of creditors, or consent to the appointment of a receiver of all or any of its assets, or voluntarily suspend its usual business, or if the Lessee or any such managing member, manager, or general partner or Lessee shall be dissolved or file a petition for dissolution, or if at any time there shall be a managing member or manager of the Lessee other than Archdiocesan Housing Authority, a Washington nonprofit corporation, without the express written consent in advance from the Director;

G. Any material misrepresentation by Lessee or managing member of Lessee in the Lease or in any information submitted by Lessee to Lessor or to any government agency in connection with the Lease or the Premises, or any material breach of any warranty made by this Lease; or

H. Any default under, breach of, failure to comply with, or failure to satisfy any condition of any capital funding related to the Premises by Lessee unless such default, breach, or failure is waived in writing by all interested parties or is cured within an applicable cure period permitted by those declaring the default in question.

17.2 Remedies Cumulative. The remedies under this Article 17 are in addition to, and not in limitation of, any other remedies provided in this Lease.

18. ASSIGNMENT OR SUBLEASE

18.1 Consent Required; Permitted Subleases to Tenants. Lessee shall not assign, mortgage, or encumber or sublease its rights under this Lease or any rights to any portion of the Premises, nor consent to the assignment of any sublease or further subletting, in each case without the prior written consent of the Director, except that subleases or rental agreements for occupancy of individual units by residents eligible under the terms of this Lease, with terms no longer than one year including renewal options, shall not require consent of Lessor if made on a form submitted to Lessor at least 30 days prior the sublease, to which the Lessor shall not have objected in writing. Lessee shall be solely responsible for ensuring that the terms of any sublease or rental agreement comply with all applicable laws and ordinances, and for compliance with all applicable landlord-tenant laws and regulations. Lessee acknowledges that no subleases, except to Tenants for occupancy of units, are intended during the Term of this Lease, and Lessor shall have no obligation to consider any other proposed sublease.

18.2 Assignment. If the Lessee proposes a complete Assignment of the Lease for purposes of financing the development of the Building, the Director shall use his or her best efforts to review the proposal and notify Lessee of approval or disapproval within 30 days. The Lessor's consent shall not be unreasonably withheld if the Assignment of all of Lessee's rights under the Lease is consistent with all of the following terms and conditions:

(a) The Assignment is to a limited partnership or limited liability company of which the Lessee is the sole general partner, or is the sole managing member and manager, and that is formed for the purposes of financing the development of Improvements consistent with the terms of this Lease.

(b) The proposed partnership agreement, operating agreement, or similar control agreement and investment terms are approved by Lessor, whose approval shall not be unreasonably withheld.

(c) The Assignee will expressly assume in writing for the benefit of Lessor all the obligations of Lessee hereunder.

(d) The Lessee shall not be in breach or default of its obligations hereunder at the time of Assignment.

(e) The Assignment shall include, or there shall be simultaneously transferred to the Assignee, title to the Improvements and all contracts, warranties, permits, applications, reserves, and personal property related to the development and operation of the Premises, unless otherwise approved in writing by the Director.

(f) The Assignment shall not cause any breach or default under any other agreements or financing arrangements for the Premises.

(g) The Assignment shall not release the assigning Lessee from any obligations under the Lease, whether accruing before or after the Assignment.

18.3 Assignment to Third Party Consistent with Purposes of Lease. Lessor shall not unreasonably withhold consent to an assignment by Lessee of all of its rights and obligations under this Lease to a third party that meets the following criteria:

(1) It is a non-profit entity with charitable purposes, which must include providing or managing housing for low-income and homeless persons and families and providing related services; and

(2) It demonstrates, to the reasonable satisfaction of the City, that it has experience in managing housing for low-income and homeless persons and families and providing related services, and has the capacity to perform under the Lease in a manner equivalent to that of Lessee; and

(3) If the conditions in subsection 18.2 (c) through (g) are also satisfied.

19. POSSESSION

19.1 Upon the Effective Date of the Lease, the Lessee shall have possession of the Premises subject to the rights reserved by the Lessor herein, and to the rights reserved by the United States in the Army Deed.

20. SURRENDER

20.1 Obligations of Lessee. On the expiration date of the Term, or on the earlier termination as provided in this Lease, Lessee shall surrender the Premises in reasonably clean condition together with all Improvements and all alterations, changes, and additions thereto that may have been made upon the Premises (except moveable furniture and equipment or moveable trade fixtures paid for solely by Lessee), in good repair, good order, and safe condition and shall, if so requested by the Lessor, convey to the Lessor by special warranty deed all Improvements, subject only to such encumbrances as shall have been specifically approved in writing by the Lessor as surviving expiration or termination of the Lease. On such date the Lessee shall deliver to the Lessor (a) all keys to any structures, fixtures, or Personal Property on the Premises; (b) all plans, blueprints, surveys, diagrams, leases, contracts, and documents relating to the Premises or the Improvements; and (c) all security deposits, prepaid rent, and any other deposits from any Tenants still in possession (but nothing herein shall be construed as the Lessor's consent to any such continued possession), and the balances in any reserve accounts maintained for the Premises or Improvements pursuant to any grant agreement, loan documents, or other financing or subsidy arrangements for the Premises or any Improvements; and (d) all Personal Property. Lessee, on or before said termination date, shall remove from the Premises all of Lessee's personal property other

than Personal Property as defined in Article 1 hereof. All property not removed by Lessee shall be deemed to have been abandoned by Lessee and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Lessor without notice to Lessee and without obligation to account for it. Lessor may require Lessee to remove, within 10 days after notice to Lessee, at Lessee's sole expense, any fixtures or structures in or on the Buildings or other Improvements or otherwise on or under the Premises that were constructed, affixed, or substantially modified without the approval of the Lessor or in violation of applicable laws, regulations, or Codes, **or that were permitted by Lessor on condition that they be removed upon expiration or termination of the Lease. Lessee shall repair any damage to the Premises caused by removing any fixtures or other property.**

20.2 Transfer of Contracts. Except as otherwise set forth in this Section 20.2, upon any termination of the Lease, Lessee shall assign and transfer to Lessor or Lessor's designee, immediately upon Lessor's demand, any and all contracts that are assignable and relate to the Premises that Lessor may specify, including without limitation any contracts for operating subsidies, rent supplements, or other support of the Premises or the operation thereof. Lessee shall take all actions necessary or appropriate to expedite and complete the transfer of such contracts, immediately upon the demand of Lessor. If Lessee would suffer actual financial loss or liability as the result of assignment of a contract, and Lessee notifies Lessor in writing of the amount and nature of the loss or liability, with supporting documentation, within 30 days after Lessor's demand for assignment, then unless Lessor shall compensate or indemnify Lessee for such loss or liability, Lessee shall not be obligated to assign such contract.

20.3 Re-entry by Lessor. If the Premises shall be vacated or abandoned by Lessee, or if there is a termination of the Lease under any provision hereof, Lessor may re-enter the Premises in such manner as Lessor may deem necessary in its sole discretion, and Lessor may repossess the Premises by force, summary proceedings, or by any other procedure provided by law or equity.

20.4 Survival of Liabilities. Any liability of Lessee or Lessor hereunder for negligent or intentional acts or omissions occurring during the Term of this Lease, or arising under the indemnity provisions of this Lease, shall survive termination and surrender (whether or not any claim giving rise to such liability shall have accrued).

21. SOLE MANAGER OR GENERAL PARTNER OF LESSEE

This Section shall take effect upon any Assignment by Lessee subject to Section 18.2(a). Lessee represents, warrants and covenants that either (i) the sole general partner, if Assignee is a limited partnership, or (ii) the sole managing member and manager, if Assignee is a limited liability company, of Lessee is and shall continue to be Archdiocesan Housing Authority ("AHA"); that AHA is a duly organized Washington nonprofit corporation with a charitable purpose that includes serving the homeless and is exempt from federal taxes under Section 501(c)(3) of the United States Internal Revenue Code; and that without the express written consent of the Director, there shall be no change in the managing member or general

partner, as the case may be, of Lessee, nor any additional general partner, managing member, or manager, nor any change in the form of organization, purposes, or income tax status of the AHA, as stated above. Lessee acknowledges that this Section is material to the purposes of the Lessor in entering into this Lease and that the Lessor would not have allowed the Assignment of the Lease to Lessee without such representation, warranty and covenants. The Lessor shall not unreasonably withhold its consent to the transfer of the interest of AHA as sole managing member and manager or as general partner to an entity that would satisfy the conditions stated in Section 18.3(1) and (2) as a proposed assignee of this Lease, if the conditions stated in Section 18.2 (d) and (f) are then satisfied.

22. QUIET ENJOYMENT

22.1 Lessor covenants that subject to the express provisions of this Lease, and to the terms of the conveyance of the Premises from the United States, if and so long as Lessee pays the Rent and other charges required by the Lease and performs all of its obligations pursuant to the terms, covenants, and conditions of the Lease, Lessee shall quietly enjoy the Premises. Notwithstanding the foregoing or any other provision of this Lease, Lessor's covenants and warranty as to title to the Premises are limited to the agreement of Lessor to warrant and defend such title, subject to the express provisions of this Lease, against all persons lawfully claiming or to claim by, through or under Lessor, and Lessor expressly disclaims all other covenants and warranties.

23. LESSOR'S CONSENT OR APPROVAL

23.1 Consent Expressly for Lease Purposes; Discretion of Lessor. Whenever Lessor's consent or approval in writing to any act to be performed by Lessee is required under the Lease, (a) Lessee must obtain a consent or approval in writing expressly for purposes of this Lease, regardless of whether a consent or approval shall have been granted by the Lessor in its regulatory, public utility, or other capacity; and (b) unless otherwise expressly stated herein, such consent or approval may be withheld in the Lessor's sole discretion, exercised in good faith. In any case in which it is stated that the Lessor's consent or approval shall not be unreasonably withheld, the Lessee agrees that valid reasons for withholding consent or approval shall include the Lessor's desire to maintain or ensure compliance with any of the following: any law, regulation, ordinance, or grant agreement; any Comprehensive Plan policy; any provision of the Application (except as the same shall have been modified or superseded by any of the foregoing); any City of Seattle adopted neighborhood plan policy; any provision of the City's Consolidated Plan; or any condition attached to any federal, state, or county funding, provided such withholding is reasonably related to such purpose.

23.2 Consents Under Lease Not for Regulatory Purposes. Any permission, consent, or approval of the Lessor contained herein or given pursuant to this Lease is or shall be granted solely in the Lessor's capacity of owner and lessor of the Premises, and not in the City's regulatory or public utility capacity, nor in its capacity as grantor of funds or lender. No such consent or approval shall be construed as any representation or assurance that the

matter consented to or approved complies with applicable laws, regulations, ordinances, or Codes, nor shall any such consent or approval be construed to authorize any failure to comply with any of the foregoing. It shall be the sole obligation of the Lessee to obtain, at its own expense, all regulatory approvals, consents, permits, and licenses necessary or convenient for the development of the Premises from all relevant authorities, including without limitation any permits from the City's Department of Construction and Inspections. Nothing herein shall be construed as assurance that any such approvals will be granted or that the City, as Lessor, will grant consents, approvals or modifications hereunder for the purpose of compliance with the conditions of any permit, approval, license, or funding agreement sought or obtained by Lessee.

24. NO DISQUALIFICATION

24.1 Lessor and Lessee represent and warrant that they are not disqualified under federal, state, or other laws, or under the rules or regulations of any governmental department or authority, from acquiring, owning, leasing, and holding any interest in real property or from obtaining any government contract.

25. BENEFIT AND BURDEN

25.1 Successors and Assigns. The terms, covenants, and conditions contained in the Lease and in the Exhibits annexed thereto shall bind Lessee and its successors and assigns, and shall inure to the benefit of Lessor and its successors and assigns. The terms, covenants, and conditions of this Lease shall inure to the benefit of Lessee's successors and assigns only if the Assignment, or other transfer (whether voluntary or involuntary) of Lessee's interests shall have received the express written consent of Lessor as provided under this Lease.

25.2 No Third Party Beneficiary. Except as expressly set forth in Section 25.1, no person other than Lessor or Lessee is intended to have any legal right or interest under this Lease.

26. NOTICE

26.1 Addresses. Any notice called for in this Lease shall be in writing and shall be hand-delivered to the respective parties at the addresses below, or deposited in the United States mail, postage prepaid, addressed as follows:

If hand-delivered to Lessor:

Director, Office of Housing
700 5th Avenue
Seattle, WA 98104

If mailed to Lessor:

Director, Office of Housing
PO Box 94725
Seattle, WA 98124-4725

If to Lessee:

Archdiocesan Housing Authority
100 23rd Ave. S
Seattle, Washington 98144
Attn: Executive Director

The parties, by written notice, may designate any further or different addresses to which some or all notices, certificates or other communications shall be sent.

26.2 Effectiveness of Notice. Notices shall be deemed to have been received by the parties 2 working days after mailing to the proper address in accordance with Section 26.1 above or upon actual delivery to such address during normal business hours, whichever first occurs.

27. TERMINOLOGY

27.1 Headings. The headings of the various Articles and Sections of the Lease have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending, or affecting in any way the express terms and provisions herein.

27.2 Gender and Number. Words of any gender used in the Lease shall be held to include any other gender and words in singular numbers shall be held to include the plural when the context so requires.

28. SEVERABILITY

28.1 If any provision of the Lease, or any Section, sentence or clause, or its application to particular circumstances, is held invalid, the Lease shall be construed as if the invalid part were never included or were expressly made inapplicable to such circumstances, as the case may be, and the Lease shall remain valid and in force to the fullest extent permitted by law.

29. APPLICABLE LAW

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

30. NEGOTIATED AGREEMENT; MERGER

30.1 Negotiated Agreement; Construction. 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.

30.2 Entire Agreement. This Lease, and the terms and provisions herein, contain the entire agreement and understanding between the parties with respect to the leasing of the Premises and any other negotiations, agreements, or understandings with respect to the leasing of the Premises are hereby expressly merged and subsumed within the terms and provisions of this Lease. No negotiations, communications, agreements, or understanding with respect to the Lease shall have any effect in the construction, application, or enforcement of this Lease. Nothing herein shall supersede any written agreement with respect to the grant or loan of funds for the Premises.

31. PROCESS FOR ALTERNATIVES BASED ON ENVIRONMENTAL REVIEW

31.1 Events Requiring Renegotiation. Notwithstanding any other provision of this Lease, if (a) an environmental review conducted under 24 CFR Section 586.45(a) after HUD's approval of the Lessor's Application for the Premises indicates that any part of the Premises is not suitable for the intended purpose; or (b) after review under the State Environmental Policy Act ("SEPA") the Lessor determines that any of the uses or actions contemplated in this Lease or the Application may have an adverse effect on the environment that cannot be sufficiently mitigated without modification of such contemplated uses or actions, then in any such case the parties shall follow the process set forth in Section 31.2 to negotiate alternative arrangements that would enable the same balance of interests made originally.

31.2 Balance of Interests. Within 15 days after notice to either Lessor or Lessee of any of the circumstances set forth in Section 31.1, representatives of the Lessor, Lessee, and United Indians shall meet to discuss alternatives designed to achieve substantially the same balance of interests as originally contemplated in the Application. Alternatives may include, without limitation, acquisition by the Lessee of alternative real property instead of any portion of the Premises that proves unsuitable for the purposes intended. Within 90 days after such meeting, Lessee shall present to the Director in writing one or more alternatives. The Director shall make available such alternatives and any others selected by the Director, for public comment, and shall hold one or more community meetings to discuss such alternatives. Following such meeting(s) and any additional review or process required by applicable laws or ordinances, the Mayor or Director shall propose to the City Council a preferred alternative, with any other alternatives deemed feasible by the Mayor or Director. If the City Council approves any such alternative, then the Council shall authorize an appropriate amendment to this Lease and any other actions it deems necessary to implement the selected alternative.

31.3 Amendment of Lease. If the City Council authorizes an amendment to this Lease pursuant to Section 31.2 above, then the Lessor may give written notice to the Lessee of an amendment that the Lessor requires in the terms of this Lease. The Lessee shall have 15 days after receipt of such notice to deliver to the Lessor its written acceptance of such amendment. If such acceptance is not delivered or is made subject to any conditions by the Lessee, then at any time after the expiration of such 15-day period the Lessor shall have the right, at its sole option, to terminate this Lease by written notice to the Lessee. Upon such termination neither party shall have any liability to the other, except for such liabilities as expressly survive the termination of this Lease in accordance with the terms hereof.

32. RIGHTS RESERVED BY LESSOR

32.1 Reservation. The Lessor reserves the right to enter onto the Premises and, with reasonable advance notice to Lessee, to use any portion of the Premises for any purpose not inconsistent with or materially detrimental to the use and operation of the Premises for the purposes set forth in the Application, including without limitation the rights:

- (a) To construct, install, maintain, use, or modify, across, under, and over the Premises, streets, roads, sidewalks, bicycle paths, utility lines and poles, and facilities of all kinds related to any of the foregoing;
- (b) To install, maintain, remove, or modify any and all landscaping, trees, shrubs, signs, or fences;
- (c) To obtain access to City-owned land.

32.2 Transfer of Rights. The rights reserved under this Article may be transferred by the Lessor wholly or in part to any private or public parties, whether or not in connection with the transfer of a fee interest in the Premises or any part thereof.

32.3 Manner of Exercise. The rights reserved under this Article shall be exercised in such manner as does not unreasonably interfere with Lessee's access to and use of the Premises.

33. EASEMENTS; LESSEE TO COOPERATE IN AND CONSENT TO ACTIONS BY LESSOR

33.1 Easements. This Lease, and all rights of Lessee with respect to the Premises, are subject to all outstanding easements and rights-of-way identified on Exhibit C to this Lease for location of any type of facility over, across, in, and upon the Premises, or any portion thereof, and to the right of the Lessor to grant such additional easements and rights-of-way over, under, across, in, and upon the Premises as it shall determine to be in the public interest; provided, that any such additional easement or right of way shall be conditioned on

the assumption by the grantee thereof of liability to the Lessee for such damages as the Lessee shall suffer for property destroyed or property rendered unusable as a result of the grantee's exercise of its rights thereunder. There is hereby reserved to the holders of such easements and rights-of-way as are presently outstanding or which may hereafter be granted, to any workers officially engaged in constructing, installing, maintaining, operating, repairing, or replacing facilities located thereon pursuant to the terms of such easements, and to any Federal, State, or local official engaged in the official inspection thereof, such reasonable rights of ingress and egress over the Premises as shall be necessary for performing their duties with regard to such facilities.

33.2 Cooperation in Actions by Lessor. Lessee acknowledges that in order to carry out the intent of the Application, as the same may be modified by the Lessor, or to carry out the intent of this Lease, it may be necessary or convenient for the Lessor as owner to effect or create various actions such as subdivisions, boundary line adjustments, easements, dedications, or transfers of jurisdiction for utility and other purposes, or condominium declarations, concerning or affecting the Premises. Lessee irrevocably agrees, promptly on the request of the Lessor, to join in, consent to, and cooperate in, any and all such actions, and to execute and deliver such documents as the Lessor shall deem reasonably required for such purpose, provided only that such actions are not fundamentally inconsistent with the use of the Premises as a whole for the basic purposes described in the Application during the period of the Lease.

34. RECORDS AND ANNUAL REPORTING

34.1 Records. Lessee shall prepare and maintain in good order, accurate and up-to-date records demonstrating compliance with the terms of this Lease and documenting the operation of the Premises, and shall make all such records available for inspection and copying promptly upon the Lessor's request.

34.2 Annual Reporting. Lessee covenants and agrees that, for the term of the Lease, it will furnish to Lessor annually on or before June 30 of each year, or another date agreed to in writing by Lessor and Lessee, commencing in the first calendar year beginning after the date hereof, a written report showing Lessee's compliance with all the terms and conditions of the Lease during the previous calendar year. This report shall include but not be limited to:

- (1) A description of ongoing security activities for the Premises;
- (2) A description of supportive services provided to Tenants and the number of homeless households served.
- (3) Certification that no hazardous materials are being stored on site, except in accordance with applicable laws;
- (4) Insurance certificate showing the Lessor as loss payee and additional insured;

(5) Explanation of any alterations occurring to the Building or Premises during the prior year;

(6) Full financial statements for Lessee and for the Premises separately, if the Lessee has other assets or operations, prepared in accordance with Generally Accepted Accounting Principles, which shall be audited or reviewed by an independent certified public accountant if so requested (an audit satisfying federal OMB Circular A-133 will suffice);

(7) A description of any neighborhood issues or complaints raised during the prior year to include a description of any resolutions or outcomes;

(8) A description of any community or neighborhood meetings attended by any representative of the Lessee and issues discussed regarding the Premises;

(9) Such other information as may be required by any provision of the Lease; and

(10) Provided that Lessor gives such advance notice as is necessary to collect or prepare the information, such other information as may be reasonably requested by Lessor.

In addition, the Lessor shall have the right at any time to perform, or to commission a consultant to perform, audits or reviews of Lessee and of the operations on the Premises of Lessee, any managing or operating agent, and United Indians or any substitute social services contractor. Lessee shall cooperate, and shall ensure that any such agent, United Indians, and any substitute contractor cooperate, fully with any such audit or review and allow the Lessor or its consultant to review and copy all relevant documents and records, including without limitation computerized records and data.

35. TIME

Time is of the essence of all terms and conditions of this Lease.

36. LIMITS ON LEASE TERMINATION; RIGHTS TO CURE

(a) The provisions of this Section 36 shall apply only if, with the written consent of Lessor, there is an Assignment of the Lessee's interest in this Lease to an entity that is organized on terms acceptable to the Director with intent to claim low income housing tax credits under the Internal Revenue Code and that has received a contribution of capital from one or more investor members or investor limited partners (collectively, the "Investor").

(b) Lessor agrees that solely as a result of any default under this Lease the Lessor shall not terminate the Lease, nor deprive or commence any action to deprive Lessee of possession of the Premises, until at least 60 days after written notice as provided below in this subsection (b). The foregoing sentence shall not prevent Lessor from giving any notice to Lessee. Lessor agrees to accept performance by the Investor as curing Lessee's defaults

under this Lease. If Lessee fails to cure any default within the time limit allowed under this Lease or if there is a default for which no time to cure is allowed to Lessee, then Lessor may terminate this Lease for such default only after 60 days' notice of such failure to cure given to the Lessee and to the Investor if the Lessor shall have been provided a current address for the Investor. Lessor shall not terminate the Lease for such default (i) if the Investor cures such default within such 60 days; or (ii) with respect to any default that is non-monetary and cannot reasonably be cured within such period, if Investor begins cure within such 60-day period, so long as the Investor proceeds diligently and continuously to complete such cure, and provided that such cure is completed in no less than 12 months, unless extended by the Director in his or her discretion.

(c) The Investor shall not have any obligation to cure any default.

Signed:

LESSOR:

THE CITY OF SEATTLE,
a Washington municipal corporation

By: _____
Print Name: Steve Walker
Title: Director, Office of Housing

By authority of Ordinance _____

LESSEE:

ARCHDIOCESAN HOUSING AUTHORITY
a Washington nonprofit corporation

By: _____
Print Name: _____
Title: _____

List of Exhibits:

- A. Map of Fort Lawton Property
- B. Development Process
- C. Map of the Premises
- D. Legal Description of Premises
- E. Information Received by Lessee

