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RESOLUTION NO. 274

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, AMENDING RESOLUTION NO. 266 AUTHORIZING A GROUND LEASE, BUILDING LEASE AND DEVELOPMENT AGREEMENT WITH OPUS NORTHWEST LLC FOR CONSTRUCTION OF THE SHORELINE CIVIC CENTER AT N 175TH AND MIDVALE AVE N.

WHEREAS, the City purchased the Highland Plaza and Kimm properties in 2006 for the future site of a Civic Center/City Hall facility; and

WHEREAS, the City held a bid process for a lease and lease back agreement requiring the lessee to build on a Civic Center for the City's offices and operations upon terms most favorable to the City; and

WHEREAS, Opus Northwest, LLC was selected as the best developer based on experience, quality of proposal and price and was awarded a Pre-Development Agreement for 30 percent design in July 2007; and

WHEREAS, the City Council passed Resolution No. 266 authorizing a Ground Lease and Development Agreement with Opus Northwest, LLC for construction and lease back of the Civic Center at a negotiated guaranteed maximum price; and

WHEREAS, staff has negotiated changes in certain payments to Opus to reduce construction financing and city financing for the project which require a revision to the expenditures authorized in Resolution No. 266; and

WHEREAS, an Mitigated Determination of Non Significance was issued for the Development Agreement and ground lease for the Civic Center and the Development Agreement pursuant to Chapter 43.21 RCW on March 13, 2008; and

WHEREAS, the Council should adopt an updated Capital Improvement Program project sheet for the Civic Center Project which will document City revenue commitments and general fund investments in the Project which will assist in obtaining construction financing; and

WHEREAS, the Council has authorized the accumulation of $9,909,110 of cash from various revenue sources and general fund budget savings to be reserved and used exclusively towards the Lease Transfer provisions of the development agreement; and

WHEREAS, the Council has committed $1,380,000 in annual revenues starting in 2009 for the purpose of retiring any debt that the City incurs in order to fulfill the City's obligations within the executed development agreement with OPUS Northwest LLC; now therefore

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON AS FOLLOWS:

Section 1. Amendment- Ground Lease Authorized. The City Manager is authorized to execute the Project Ground Lease with Opus Northwest, LLC attached hereto as Exhibit A, for a portion of City property at 1110 N. 175th Shoreline, WA for the purpose of constructing the Shoreline Civic Center. This lease replaces the Ground Lease authorized in Section 1 of Resolution No. 266 in its entirety.

Section 2. Amendment- Development Agreement Authorized. The City Manager or designee is authorized to execute the Shoreline Civic Center Development Agreement, and the Building Lease attached thereto, filed under Clerk's Receiving No. 4728, with Opus Northwest, LLC for the construction and lease of the Shoreline Civic Center to the City of Shoreline for its governmental offices and operations for a Base Project Cost of $30,550,000 less a credit of $494,590 for design fees paid with the Pre-Development Agreement authorized by the City Council on July 9, 2007. This amount includes a Guaranteed Maximum Price for Project design and construction ($28,000,000); allowances for Opus' construction financing; a City contingency; and furniture, fixtures and equipment ($2,550,000). The City Manager is authorized to execute the Building and Project Leases incorporated in the Development Agreement, with lease payments in an amount sufficient to amortize $28,403,433. This Section replaces the authorization of Resolution No. 266 Section 2.

Section 3. Amendment- Financing Authorized. The City Manager or designee is authorized to enter into contracts for consultant, underwriting, legal and other fees necessary to acquire financing and to issue the required debt to fulfill the obligation of the Development Agreement. This Section replaces the authorization of Resolution No. 266 Section 3.

Section 4. The Civic Center/City Hall Project sheets, 2008-2013 Adopted Capital Improvement Plan, pages 48-49, are amended as set forth in Exhibit B attached hereto.

ADOPTED BY THE CITY COUNCIL ON MARCH 24, 2008.

Mayor Cindy Ryu

ATTEST:

Scott Passey
City Clerk

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EXHIBIT A

PROJECT GROUND LEASE AGREEMENT

THIS PROJECT GROUND LEASE AGREEMENT ("Project Ground Lease") is made as of _____, 2008, by and between **CITY OF SHORELINE** , a municipal corporation of the State of Washington ("Lessor"), and **OPUS NORTHWEST, L.L.C.**, a Delaware limited liability company ("Lessee").

RECITALS

A. Lessor is the owner of the real estate described on **EXHIBIT A** attached hereto ("Building Land") located in Shoreline, King County, Washington.

B. Lessor intends to lease the Building Land to Lessee pursuant to this Project Ground Lease, and Lessee intends to construct and equip thereon an office building to serve as government offices for Lessor ("Building") containing approximately 67,000 square feet of rentable area as more fully described in the Preliminary Plans and Specifications, including all HVAC, electrical and other building systems, and Tenant Improvements, and a parking garage ("Garage")as described in the Development Agreement between Lessor and Lessee (the "Development Agreement"), collectively referred to as the "Project". The design and construction of the Project shall be as more particularly described in the Development Agreement between the parties.

C. Lessee intends to lease the Building Land, including the Building and Garage, back to Lessor in accordance with the Municipal Leasing Act, RCW ch. 35.42, and pursuant to that certain Building Lease and that certain Project Lease described in the Development Agreement ("Two Project Leases"). The parties intend that concurrently with their execution of the Building Lease Lessee shall assign its landlord's interest in the Building Lease to the trustee holding the bond proceeds from the issuance of Certificates of Participation unless Lessor has exercised the Option to purchase included in the Building Lease prior to commencement of the Building Lease, in which case this Project Ground Lease shall be partially transferred by special warranty deed on the Closing Date for the Building if Lessor has segregated the Building Land for the Building from the remainder of the Building Land for the Garage prior to the Payment Date for the Building. The parties intend that concurrently with their execution of the Project Lease Lessee shall assign its landlord's interest in the Project Lease to the trustee holding the bond proceeds from the issuance of Certificates of Participation unless Lessor has exercised the Option to purchase included in the Project Lease prior to commencement of the Project Lease, in which case this Project Ground Lease shall be entirely transferred by special warranty deed on the Closing Date for the Project.

D. All capitalized terms used in this Project Ground Lease but not otherwise defined herein (including these Recitals hereto) shall have the meanings given to such terms in the Development Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the parties hereto agree as follows:

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1. The Demise.

1.1 Demise. In consideration of the rents, covenants and agreements contained in this Project Ground Lease, Lessor hereby leases the Building Land to Lessee, and Lessee hereby leases the Building Land from Lessor upon and subject to the conditions set forth in this Project Ground Lease, and subject to all encumbrances and matters of record as of the date of this Project Ground Lease.

1.2 Use of the Building Land. The Building Land shall be used and occupied only for the purpose of the development, operation, use, repair and maintenance of the Project. Until Lessee commences such use, Lessor reserves the right to continue to use and occupy the Pre-existing Buildings and the Building Land for its purposes at no cost. Lessee shall not use or permit the Building Land to be used for any other purpose without the prior written approval of Lessor. Lessee is hereby authorized to lease back to Lessor the Building Land as improved by the Project pursuant to the Two Project Leases.

1.3 Access and Utilities. Lessor and Lessee agree to mutually cooperate regarding the provision of reciprocal temporary and permanent pedestrian and vehicular access and utilities to, from and over the Building Land to, from and over adjacent lands of Lessor. Lessor and Lessee further agree to mutually cooperate regarding the use of parking on the Building Land and the adjacent lands of Lessor during and after construction of the Project. Lessor and Lessee agree to execute such instruments as may be necessary to provide for such pedestrian and vehicular access, parking and utilities and agree to cooperate in the location thereof.

1.4 Construction Activity. Lessor hereby grants permission to Lessee to perform construction activity related to the Project on adjacent lands of Lessor. Lessee and Lessor agree to mutually cooperate as to the timing, use and location of such construction activity in order to ensure completion of the Project in a timely manner while maintaining Lessor's ability to utilize the adjacent lands for Lessor's ongoing operations and that of its lessees of adjacent lands.

2. Term.

2.1 Commencement. Subject to the terms and conditions of this Project Ground Lease, the term of this Project Ground Lease shall commence on the date that this Project Ground Lease is fully executed, acknowledged and delivered by Lessor and Lessee ("Effective Date").

2.2 Duration. This Project Ground Lease shall terminate on the termination date of the Project Lease to be executed by the parties under the Development Agreement unless sooner terminated hereunder ("Term").

3. Rent. Lessee shall pay to Lessor as rent for the Term the sum of $100.00 payable in whole in advance on or before the first day of the Term.

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4. Development of Project.

4.1 Construction. Lessor agrees that Lessee shall cause the Project to be constructed and developed pursuant to the Development Agreement. Lessee shall not permit any development or construction on the Building Land except as contemplated by the Development Agreement or as otherwise specifically approved in writing by Lessor.

4.2 Ownership of Improvements. During the Term, the Project and all other improvements on the Building Land paid for by Lessee shall be owned by Lessee. Upon the expiration or earlier termination of this Project Ground Lease, the Project and all other improvements on the Building Land shall become the property of Lessor.

5. Taxes and Utilities.

5.1 Lessee's Responsibility. Lessee shall be solely responsible for the payment of and shall pay and discharge all utility charges which are incurred as part of Project Costs as defined in the Development Agreement.

5.2 Lessor's Responsibility. Lessor shall pay all utility charges that are not part of Project Costs and all real estate taxes and assessments, if any, that are imposed upon the Building Land. In accordance with RCW 35.42.090, this Project Ground Lease shall be exempt from any taxes imposed under the authority of RCW ch. 82.45, RCW 82.04.040, or RCW 82.08.090.

5.3 Lessor's Taxes. Nothing in this Project Ground Lease shall require Lessee to pay any franchise, estate, inheritance, succession, capital levy (measured on the capital stock of Lessor), income, or transfer tax of Lessor.

6. Condition of the Building Land.

6.1 Condition of the Building Land and Pre-existing Buildings. The Parties have prepared the Project Budget having considered studies and surveys of soil conditions and the presence of hazardous substance in the Building Land soils and Pre-Existing Building. Lessor hereby warrants the condition of the Pre-existing Buildings for demolition and the condition of the Building Land for construction of the Project. Should the cost of Project excavation exceed the amount provided in the approved Project Budget due to Environmental Remediation, Lessor shall pay the excess cost caused by the presence of Hazardous Substances to Lessee upon completion of the excavation work. Should the cost of demolition of the Pre-existing Buildings, together with the removal costs of asbestos or other Hazardous Substances being present in the Pre-existing Buildings or costs due to other unknown conditions, exceed the amount of $275,000 provided in the approved Project Budget, Lessor shall pay such excess costs to Lessee upon completion of the demolition.

6.2 Environmental Indemnification. Lessor shall be solely responsible for all claims, judgments, damages, penalties, fines, expenses, liabilities or losses relating to the presence, release, migration or disposal of Hazardous Substances that were present in the soil, groundwater or soil vapor on or under the Building Land or any adjacent or nearby property or within the Pre-existing Buildings as of the Effective Date of this Project Ground Lease or that which may

migrate to or from the Building Land during the term of this Project Ground Lease, including any costs of investigation or remediation of such toxic or hazard substances that may be required by any federal, state or local government agency. Except as set forth in the last sentence of this Section 6.2, Lessor hereby releases and will indemnify, defend (with counsel reasonably acceptable to Lessee), protect and hold harmless Lessee from and against any and all claims, actions, demands, liabilities, damages, costs, penalties, forfeitures, losses or expenses, including, without limitation, reasonable attorneys' fees and the costs and expenses of enforcing any indemnification, defense or hold harmless obligation under this Project Ground Lease ("Claims") whatsoever to the extent arising or resulting, in whole or in part, directly or indirectly, from the presence, treatment, storage, transportation, disposal, release, migration or management of hazardous substances in, on, under, upon, to or from the Building Land (including water tables and atmosphere) and the Pre-existing Buildings that existed on, or migrates or migrated to or from, the Building Land or the Pre-existing Buildings. Lessor's obligations under this Section 6.2 include, without limitation and whether foreseeable or unforeseeable, (a) all of Lessee's costs, except as covered by the approved Project Budget, of any required or necessary repair, clean-up, detoxification or decontamination of the Building Land and the Pre-existing Buildings; (b) all of Lessee's costs of implementing any closure, remediation or other required action in connection therewith; (c) the value of any loss of use and any diminution in value of the Building Land, and (d) consultants' fees, experts' fees and response costs. Lessor's obligations under this Section 6.2 shall survive the expiration or termination of this Project Ground Lease. Notwithstanding the foregoing, Lessor shall not be responsible for any claims, judgments, damages, penalties, fines, expenses, liabilities or losses relating to the release or disposal by Lessee of Hazardous Substances brought onto the Building Land by Lessee during construction of the Project and the responsibility for the same shall remain with Lessee.

6.3 Lessor's Right to Inspect. Lessor shall have the right to inspect the Building Land at any time.

7. Liens; Security Interest.

7.1 Lessee's Duty. Except for the use of this Project Ground Lease as security to finance or refinance the Project or as specifically approved in writing by Lessor, Lessee will not directly or indirectly create or permit to be created or to remain, and will discharge any mortgage, lien, security interest, encumbrance or charge on, pledge of or conditional sale or other title retention agreement with respect to the Building Land, any part thereof, the Project, Lessee's interest therein, or any equipment, fixtures or personalty on the Building Land that is imposed by or as a result of the actions of Lessee.

7.2 Leasehold Mortgage Provisions.

(a) **Right to Encumber**. Notwithstanding the provisions set forth in this Project Ground Lease regarding any assignment of this Project Ground Lease, Lessee shall have the right at any time and from time to time to encumber its interest in this Project Ground Lease (the "Leasehold Estate") by one or more mortgage, deed of trust or other security instrument, including, without limitation, an assignment of the rents, issues and profits, which constitutes a lien on the Leasehold Estate and on the fee interest of Lessee in any improvements located on the Building Land during the term of this Project

Ground Lease, including any modification or extension thereof ("Leasehold Mortgages"). Any mortgagee or beneficiary of a mortgage or deed of trust (a "Leasehold Mortgagee") shall have the unrestricted right to assign, sell, participate, securitize and otherwise deal with its interest in the Leasehold Mortgage as it sees fit and without the necessity of obtaining any consent from Lessor. Lessor shall not in any way subordinate any of its rights under this Project Ground Lease to any Leasehold Mortgagee and any Leasehold Mortgagee who forecloses on its Leasehold Mortgage shall agree to abide by and be bound by all the terms of this Project Ground Lease during the term of its ownership of the Lessee's Leasehold Estate. Lessee shall deliver to Lessor promptly after execution by Lessee a true and verified copy of any Leasehold Mortgage and any amendment, modification or extension thereof, together with the name and address of the Leasehold Mortgagee and shall pay or reimburse Lessor for all fees and costs, including reasonable attorneys' fees, incurred by Lessor in connection with review of said documents to insure compliance with this Project Ground Lease.

(b) **Covenants of Lessor**. During the continuance of any Leasehold Mortgage until such time as the lien of any Leasehold Mortgage has been extinguished, and if a true and verified copy of such Leasehold Mortgage shall have been delivered to Lessor together with a written notice of the name and address of the owner and holder thereof:

(i) Lessor shall not agree to any mutual termination nor accept any surrender of this Project Ground Lease (except upon the expiration of the Term as provided herein) nor shall Lessor consent to any material amendment or modification of this Project Ground Lease, without the prior written consent of the Leasehold Mortgagee, which consent shall not be unreasonably withheld or delayed and shall be deemed to have been given if Lessor has received no written objection from the Leasehold Mortgagee within twenty (20) days after delivery to the Leasehold Mortgagee of notice of such amendment or modification.

(ii) Notwithstanding any default by Lessee in the performance or observance of any covenant, condition or agreement of this Project Ground Lease on the part of Lessee to be performed or observed ("Event of Default"), Lessor shall have no right to terminate this Project Ground Lease even though an Event of Default under this Project Ground Lease shall have occurred and be continuing, unless and until Lessor shall have given the Leasehold Mortgagee written notice of such Event of Default and the Leasehold Mortgagee shall have failed to remedy such default or to acquire Lessee's Leasehold Estate or to commence foreclosure or other appropriate proceedings in the nature thereof, all as set forth in, and within the time specified by, this Section 7.2.

(iii) The Leasehold Mortgagee shall have the right, but not the obligation, at any time prior to termination of this Project Ground Lease, to pay all of the Rents due hereunder, to provide any insurance, to pay any taxes and make any other payments, to make any repairs and improvements and do any other act or thing required of Lessee hereunder, and to do any act or thing which

may be necessary and proper to be done in the performance and observance of the covenants, conditions and agreements hereof to prevent the termination of this Project Ground Lease. All payments so made and all things so done and performed by the Leasehold Mortgagee shall be as effective to prevent a termination of this Project Ground Lease as the same would have been if made, done and performed by Lessee instead of by the Leasehold Mortgagee.

(iv) Should any Event of Default under this Project Ground Lease occur, the Leasehold Mortgagee shall have thirty (30) days after receipt of notice from Lessor setting forth the nature of such Event of Default, and, if the default is such that possession of the Property may be reasonably necessary to remedy the default, a reasonable time after the expiration of such thirty (30) day period, within which to remedy such default; provided that (i) the Leasehold Mortgagee shall have fully cured any default in the payment of any monetary obligations of Lessee under this Project Ground Lease within such thirty (30) day period and shall continue to pay currently such monetary obligations as and when the same are due, and (ii) the Leasehold Mortgagee shall have acquired Lessee's Leasehold Estate or commenced foreclosure or other appropriate proceedings in the nature thereof within such thirty (30) day period or prior thereto, and shall be diligently and continuously prosecuting any such proceedings to completion. All rights of Lessor to terminate this Project Ground Lease as the result of the occurrence of any such Event of Default shall be subject to and conditioned upon Lessor having first given the Leasehold Mortgagee written notice of such Event of Default and the Leasehold Mortgagee having failed to remedy such default or acquire Lessee's Leasehold Estate or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in and within the time period specified by this subparagraph (iv). If an Event of Default is cured by the Leasehold Mortgagee, this Project Ground Lease shall continue in full force and effect as if such Event of Default had not occurred. No Leasehold Mortgagee shall have any obligation to cure or attempt to cure any Event of Default and may abandon or discontinue its efforts to cure at any time.

(v) An Event of Default under this Project Ground Lease which in the nature thereof cannot be remedied by the Leasehold Mortgagee shall be deemed to be remedied if (A) within sixty (60) days after receiving written notice from Lessor setting forth the nature of such Event of Default, the Leasehold Mortgagee shall have acquired Lessee's Leasehold Estate or commenced foreclosure or other appropriate proceedings in the nature thereof, (B) the Leasehold Mortgagee shall diligently and continuously prosecute any such proceedings to completion, (C) the Leasehold Mortgagee shall have fully cured any default in the payment of any monetary obligations of Lessee under this Project Ground Lease which do not require possession of the Property within such thirty (30) days after receipt of such written notice and shall thereafter continue to faithfully perform all such monetary obligations which do not require possession of the Property, and (D) after gaining possession of the Property, the Leasehold

Mortgagee shall perform all of the obligations of Lessee hereunder as and when the same are due.

(vi) If the Leasehold Mortgagee is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy, debtor rehabilitation or insolvency proceedings involving Lessee from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the times specified in subparagraphs (iv) and (v) above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition; provided, that the Leasehold Mortgagee shall have fully cured any default in the payment of any monetary obligations of Lessee under this Project Ground Lease and shall continue to pay currently such monetary obligations as and when the same fall due, and provided, further, that the Leasehold Mortgagee shall diligently attempt to remove any such prohibition.

(vii) Foreclosure of a Leasehold Mortgage, whether by judicial proceedings or by virtue of any power of sale contained in the Leasehold Mortgage, or any conveyance of the Leasehold Estate from Lessee to the Leasehold Mortgagee by virtue or in lieu of foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Lessor or constitute a breach of any provision of or a default under this Project Ground Lease. Upon such foreclosure, Lessor shall recognize the Leasehold Mortgagee, or any other foreclosure sale purchaser, as Lessee hereunder so long as the Leasehold Mortgagee or the foreclosure purchaser agrees in writing to abide by all of the provisions of the Lease and so long as there is no monetary default under this Project Ground Lease. If there are two or more Leasehold Mortgages or foreclosure sale purchasers (whether of the same or different Leasehold Mortgages), Lessor shall have no duty or obligation whatsoever to determine the relative priorities of such Leasehold Mortgages or the rights of the different holders thereof and/or foreclosure sale purchasers. If the Leasehold Mortgagee becomes the Lessee under this Project Ground Lease or under any new lease obtained pursuant to subparagraph (viii) below, the Leasehold Mortgagee shall be liable for the obligations of Lessee under this Project Ground Lease or such new lease only for the period of time that the Leasehold Mortgagee is the tenant hereunder or thereunder. If the Leasehold Mortgagee subsequently assigns or transfers its interest under this Project Ground Lease after acquiring the same by foreclosure or by an acceptance of a deed in lieu of foreclosure or subsequently assigns or transfers its interest under any such new lease, and in connection with any such assignment or transfer the Leasehold Mortgagee takes back a mortgage or deed of trust encumbering such leasehold interest to secure a portion of the purchase price given to the Leasehold Mortgagee for such assignment or transfer, then such mortgage or deed of trust shall be considered a Leasehold Mortgage as contemplated under this Section 7.2 and the Leasehold Mortgagee shall be entitled to receive the benefit of and shall be bound by the provisions of this

Section 7.2 and any other provisions of this Project Ground Lease intended for the benefit or burden of the holder of a Leasehold Mortgage.

(viii) Should Lessor terminate this Project Ground Lease by reason of any Event of Default by Lessee hereunder or if this Project Ground Lease is rejected in any bankruptcy proceedings with respect to Lessee, Lessor shall, upon written request by the Leasehold Mortgagee to Lessor received within sixty (60) days after such termination, execute and deliver a new lease of the Building Land to the Leasehold Mortgagee for the remainder of the term of this Project Ground Lease with the same covenants, conditions and agreements (except for any requirements which have been satisfied by Lessee prior to termination) as are contained herein. Together with the execution and delivery of such new lease of the Building Land, Lessor shall convey to the Leasehold Mortgagee title to any Improvements constructed by Lessee by quitclaim deed for the term of such new lease. Lessor's delivery of any Improvements to the Leasehold Mortgagee pursuant to such new lease shall be made without representation or warranty of any kind or nature whatsoever, either express or implied; and the Leasehold Mortgagee shall take any Improvements "as-is" in their then current condition. Upon execution and delivery of such new lease, the Leasehold Mortgagee, at its sole cost and expense, shall be responsible for taking such action as shall be necessary to cancel and discharge this Project Ground Lease and to remove Lessee named herein and any other occupant from the Property. Lessor's obligation to enter into such new lease of the Building Land with the Leasehold Mortgagee shall be conditioned as follows: (A) the Leasehold Mortgagee has remedied and cured all monetary defaults hereunder and has remedied and cured or has commenced and is diligently completing the cure of all non-monetary defaults of Lessee susceptible to cure by any party other than by the original Lessee, and (B) that the Leasehold Mortgagee pays all costs and expenses of Lessor, including, without limitation, reasonable attorneys' fees, real property transfer taxes and any escrow fees and recording charges, incurred in connection with the preparation and execution of such new lease and any conveyances related thereto. If more than one Leasehold Mortgagee requests such new lease Lessor shall have no duty or obligation whatsoever to determine the relative priority of such Leasehold Mortgages, and, in the event of any dispute between or among the holders thereof, Lessor shall have no obligation to enter into any such new lease if such dispute is not resolved to the sole satisfaction of Lessor within ninety (90) days after the date of termination of this Project Ground Lease.

(ix) Lessor and Lessee shall cooperate in including in this Project Ground Lease by suitable amendment from time to time any provision which may be requested by any proposed the Leasehold Mortgagee, or may otherwise be reasonably necessary, to implement the provisions of this Section 7.2; provided, however, that any such amendment shall not in any way affect the Term hereby demised nor affect adversely in any material respect any rights of Lessor under this Project Ground Lease, and the Leasehold Mortgagee

shall pay or reimburse Lessor for all costs and expenses incurred by it in connection with any such amendment, including reasonable attorneys' fees.

(x) Any Leasehold Mortgagee shall be given notice of any arbitration or appraisal proceedings arising out of or in connection with this Project Ground Lease and will have the right to intervene in the proceedings. If a Leasehold Mortgagee elects not to intervene it will nonetheless be given notice and a copy of any award or decision made in such proceedings.

(xi) Lessor and Lessee agree to execute, acknowledge and deliver to any Leasehold Mortgagee, an agreement in form reasonably acceptable to Lessor prepared at the sole expense of Lessee, reaffirming the applicability of the provisions of this Section 7.2 to a particular Leasehold Mortgage.

(c) **Obligations of Lessee**. Nothing contained herein or in any Leasehold Mortgage shall be deemed or construed to relieve Lessee from the full and faithful observance and performance of its covenants, conditions and agreements contained herein, or from any liability for the non-observance or non-performance thereof, or to require or provide for the subordination to the lien of such Leasehold Mortgage of any estate, right, title or interest of Lessor in or to the Building Land or this Project Ground Lease.

8. Indemnity and Insurance.

8.1 Indemnity. Lessor and Lessee mutually agree that in any and all causes of action and/or claims or third-party claims arising out of or in connection with the terms, activities, use and/or operations of this Project Ground Lease, including the Building Land and the Project, each party shall be responsible to the other only to the extent of each other's comparative fault in causing the alleged damage or injuries. As to any and all causes of action and/or claims or third-party claims arising from the sole fault of a party to this Project Ground Lease ("Indemnifying Party"), the Indemnifying Party shall have the duty to defend, save and hold the other party harmless and upon failure to do so, the Indemnifying Party shall pay the reasonable attorneys' fees, costs and expenses incurred by the other party to this Project Ground Lease in defense of such claims and/or actions. Nothing contained within this Section 8.1 shall affect and/or alter the application of any other provision contained within this Project Ground Lease.

8.2 Property Insurance. At all times during the Term of this Project Ground Lease, in the event that Lessor is not maintaining property insurance with respect to all improvements constructed on the Building Land, Lessee shall maintain property insurance fully insuring, at 100% of replacement cost value subject to a reasonable deductible, all improvements constructed on the Building Land against loss or damage by fire and other perils currently covered by a special causes of loss commercial property insurance form. Lessee shall also cause the Premises to be insured against the perils of earthquake and flood (if applicable) either as part of the aforementioned property insurance or under a separate policy or policies. The property insurance policy shall meet the requirements set forth in this section and in the Development Agreement.

8.3 Waiver of Subrogation. Lessee shall cause its property insurance carrier(s) to release and waive all rights of subrogation against Lessor to the extent a loss is covered by property insurance in force; provided, however, that this Section 8.3 shall be inapplicable if it would have the effect of invalidating any insurance coverage of Lessee.

8.4 Minimum Scope of Insurance Coverage for Lessee.

8.4.1 Lessee's Coverages. During the Term of this Lease, Lessee shall at a minimum maintain: Commercial General Liability insurance (Insurance Services Office form number (CG00 001), covering Commercial General Liability with a limit of not less than $1,000,000 combined single limit per occurrence; $2,000,000 aggregate. In addition, Lessee shall maintain workers' compensation coverage as required by the Industrial Insurance Act of the State of Washington, statutory limits.

8.4.2 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in insurance coverage maintained by Lessee must be declared to and approved by Lessor. The deductible and/or self-insured retention of the policies shall not limit or apply to Lessor and shall be the sole responsibility of Lessee.

8.4.3 Other Insurance Provisions. The insurance policies required by this Project Ground Lease are also to contain or be endorsed to contain the following provisions where applicable:

(a) Liability Policies:

(1) Lessor, its officers, officials, employees and agents are to be covered as an additional insured as respects liability arising out of activities performed by or on behalf of Lessee in connection with this Lease.

(2) Lessee's insurance coverage shall be primary insurance as respects Lessor, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by Lessor its officers, officials, employees and agents shall not contribute with Lessee's insurance or benefit Lessee in any way.

(3) Lessee's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(b) All Policies. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except by the reduction of the applicable aggregate limits by claims paid, until after forty-five (45) days' prior written notice has been given to Lessor.

(c) Acceptability of Insurers. Unless otherwise approved by Lessor:

(1) Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's with a rating in one of the two highest categories maintained by Standard & Poor's Rating Group and Moody's Investors Service.

(2) If at any time any of the foregoing policies shall fail to meet the above minimum standards, Lessee shall, upon notice to that effect from Lessor, promptly obtain a new policy and shall submit the same to Lessor with certificates and endorsements for approval.

9. Eminent Domain.

9.1 Award. In the event of any taking, partial or whole, Lessor shall be entitled to the entire award judgment or settlement from the condemning authority for the value of the Building Land taken by the condemning authority.

10. Events of Default by Lessee and Lessor's Remedies.

10.1 Events of Default. The following occurrences or acts shall constitute an event of default under this Project Ground Lease:

(a) Failure to Perform. If Lessee shall (i) default in making payment when due of any rent or any other amount payable by Lessee hereunder; or (ii) default in the observance or performance of any other substantial provision of this Project Ground Lease to be observed or performed by Lessee hereunder; and, in either case, if such default shall continue for thirty (30) days, in each case after Lessor shall have given to Lessee notice specifying such default and demanding that the same be cured, or, with respect to a default under subsection (ii), if by reason of the nature thereof such default cannot be cured by the payment of money and cannot with due diligence be wholly cured within such period of thirty (30) days, if Lessee shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default and with all due diligence, it being intended in connection with a default not susceptible of being wholly cured with due diligence within such period that the time within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence; or

(b) Lessee's Financial Condition. If Lessee shall make a general assignment for the benefit of creditors, or shall file a petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file an answer admitting or shall fail seasonably to contest the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Lessee or any material part of its properties.

10.2 Remedies Upon Lessee's Default. In the event of any default by Lessee as defined hereinabove which default remains uncured after the expiration of the respective period set forth above, Lessor may exercise any remedy which may be available to Lessor at law or equity, including but not limited to actions for damages, and/or injunctive relief; provided,

that, unless the Leasehold Mortgage and the Bonds have been paid in full and the Bond Insurer, if any, has consented, Lessor may not terminate this Project Ground Lease prior to the end of the Term.

10.3 Cumulative Rights and Remedies. The rights and remedies reserved to Lessor herein, including those not specifically described, shall be cumulative, and except as provided by Washington statutory law in effect at the time, Lessor may pursue any and all such rights and remedies at the same time or independently.

10.4 No Waiver. No delay or omission of Lessor to exercise any right or remedy shall, except as expressly provided herein, be construed as a waiver of any such right or remedy or of any default by Lessee hereunder. The acceptance by Lessor of rent or any additional rent hereunder shall not be a waiver of any preceding breach or default by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent accepted, regardless of Lessor's knowledge of such preceding breach or default at the time of acceptance of such rent, or, except as expressly set forth herein, a waiver of Lessor's right to exercise any remedy available to Lessor by virtue of such breach or default.

10.5 Attorneys' Fees. If either party incurs any expenses, including but not limited to reasonable attorneys' fees, consultant and expert witness fees, in connection with any action or proceeding instituted by any party by reason of any default or alleged default of a party hereunder, the party prevailing in such action or proceeding shall be entitled to recover its reasonable expenses from the other party hereof. For purposes of this provision, in any action or proceeding instituted pertaining to the Lease, a party shall be deemed the prevailing party if (i) judgment is entered substantially in favor of said party or (ii) before trial or judgment the other party shall pay all or any portion of the charges claimed by said party, or the other party shall eliminate the condition(s), cease the act(s) or otherwise cure the omissions(s) claimed by said party to constitute a default by the other party hereunder.

11. Quiet Enjoyment.

11.1 Lessee's Occupation of the Building Land. If and so long as Lessee shall pay all rent and all other amounts payable by Lessee hereunder whenever the same shall become due and shall keep all of the covenants and conditions required by it to be kept during this Project Ground Lease and shall perform all of its other obligations hereunder, Lessor covenants and agrees that, except as may otherwise be provided in the Development Agreement, Lessor will not interfere with the peaceful and quiet occupation and enjoyment of the Building Land by Lessee, which occupation and enjoyment shall be without hindrance, ejection or molestation by Lessor.

12. Lessee to Comply with Applicable Laws and Agreements.

12.1 Compliance with Laws. Lessee shall not use the Building Land or permit anything to be done in or about the Building Land which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Except as set forth in Section 6.1 above, Lessee shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules,

regulations or requirements now in force or which may hereafter be in force, and obtain all permits, licenses or other approvals required by governmental agencies or bodies. Lessee shall further comply with the requirements of any board or fire insurance underwriters or other similar bodies now or hereafter constituted, relating to, or affecting the condition, use or occupancy of the Building Land.

12.2 Compliance with Agreements. Lessee shall comply with all insurance policies and applicable agreements to which Lessee is a party or by which it is bound, now or hereafter in effect, and all agreements of which Lessee has notice and which are now in effect and applicable to the Building Land.

13. Waiver Limitations.

13.1 Waiver Limitations. The waiver by either party of any term, covenant or condition herein contained on the part of the other party to be performed shall not be deemed a waiver of such term, covenant or condition for any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Project Ground Lease, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.

14. Notices.

14.1 Addresses. All notices, requests, demands, instructions or other documents to be given hereunder to any party shall be in writing and shall either be personally delivered to the party at the appropriate address set forth below (in which event such notice shall be deemed effective only upon such delivery) or delivered by mail, sent by registered or certified mail, return receipt requested, as follows:

If to Lessor:
City of Shoreline
City Clerk
17544 Midvale Ave. N.
Shoreline, WA 98133-4921
Facsimile: (206) 546-0780

If to Lessee:
Opus Northwest, L.L.C.
13920 SE Eastgate Way, Suite 250
Bellevue, WA 98005
Attn: Thomas B. Parsons
Phone (425) 467-2700
Fax (425) 467-2701

Copy to:
Opus Northwest, L.L.C.
10350 Bren Road West
Minnetonka, MN 55343
Attn: Brad J. Osmundson, General Counsel

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Phone (952) 656-4606
Fax (952) 656-4814

Notices so mailed shall be deemed to have been given forty-eight (48) hours after the deposit of the same in any United States Mail post office box in the state to which the notice is addressed or seventy-two (72) hours after deposit in any such post office box other than the state to which the notice is addressed, postage prepaid, addressed as set forth above. For the purpose of this Section, addresses for notice may be changed by giving written notice of such change in the manner herein provided for giving notice.

15. Assignment and Subleasing.

15.1 Subleasing. Lessor and Lessee intend that Lessee shall enter into the Two Project Leases with Lessor. Any other proposed subleases of the Building Land shall be subject to the review and approval of Lessor.

15.2 Assignment. Except for the assignment to the Leasehold Mortgagee pursuant to Section 7.2 above and to assignees authorized by the parties under Section 3.14 of the Two Project Leases, including the Trustee to secure the Bonds for the Project, Lessee shall not assign, mortgage, or encumber this Project Ground Lease or delegate the duties of Lessee under this Project Ground Lease without the prior written consent of Lessor. A consent to one assignment shall not be deemed to be a consent by Lessor to any subsequent assignment by another person. This Project Ground Lease shall not, nor shall any interest of Lessee herein, be assignable by operation of law, without prior written consent of Lessor.

16. Miscellaneous.

16.1 Time of Essence. Time is of the essence in regard to performance of the covenants and agreements stated herein.

16.2 No Joint Venture or Agency. Nothing contained in this Project Ground Lease nor any of the acts of the parties hereto shall be construed nor is it the intent of the parties, to create a joint venture or partnership between Lessor and Lessee, nor is either party the agent or representative of the other, and nothing in this Project Ground Lease shall be construed to create any such agency relationship or to hold either party liable to anyone for goods delivered or services performed at the request of the other party.

16.3 Amendments. No change in or addition to or waiver or termination of this Project Ground Lease any part hereof, shall be valid unless made in writing and signed by or on behalf of the party charged therewith. Lessor and Lessee agree to negotiate in good faith any amendments to this Project Ground Lease that may be requested or required in connection with the issuance of the Bonds to finance the Project.

16.4 Governing Law. This Project Ground Lease shall be construed in accordance with and governed by the laws of the State of Washington.

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16.5 Headings. The article, section and paragraph headings herein contained are for the purposes of identification and reference convenience only and shall not be considered in construing this Project Ground Lease.

16.6 Successors and Assigns. Subject to the provisions hereof restricting the sublease or assignment by Lessee, all the terms and provisions of this Lease shall be binding upon and to the benefit of and be enforceable by the parties and the successors and assigns of the parties.

16.7 No Merger. Until the termination of this Lease in accordance with its terms, in no event shall the leasehold interest of Lessee hereunder merge with any estate of Lessor in or to the Building Land or the leasehold interest of Lessor under the Two Project Leases, provided, however, in the event that Lessor acquires the leasehold interest of Lessee, such leasehold interest shall merge with Lessor's fee interest in the Building Land or the leasehold interest of Lessor under the Two Project Leases, and this Project Ground Lease and the Two Project Leases shall terminate.

16.8 Counterparts; Recording of Memorandum. This Project Ground Lease may be executed in several counterparts, each of which shall be deemed an original for all purposes. Either Lessor or Lessee shall have the right to record a memorandum of this Project Ground Lease in a form comparable to that provided in the Two Project Leases and the parties shall cooperate in execution of such memorandum.

16.9 Schedule of Exhibits. This Project Ground Lease includes the following exhibits attached hereto and incorporated herein by this reference.

EXHIBIT A Building Land Legal Description

IN WITNESS WHEREOF, Lessor and Lessee have executed this Project Ground Lease as of the date set forth in the first paragraph of this Project Ground Lease to evidence their agreement to the terms of this Project Ground Lease.

DATED the date first above written.

LESSOR:

CITY OF SHORELINE,
a municipal corporation of the
State of Washington

APPROVED AS TO FORM:

By_____
Ian Sievers, City Attorney

By_____
Robert Olander, City Manager
Date: _____

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LESSEE:

OPUS NORTHWEST, L.L.C.,
a Delaware limited liability company

By_____
Name:
Title:
Date: _____

STATE OF WASHINGTON }
COUNTY OF KING } ss.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that [he/she] signed this instrument, on oath stated that [he/she] was authorized to execute the instrument and acknowledged it as the _____ of THE CITY OF SHORELINE, a political subdivision of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2005.

_____
Printed Name _____
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission Expires _____

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STATE OF WASHINGTON }
COUNTY OF KING } ss.

I certify that I know or have satisfactory evidence that Thomas B. Parsons is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Senior Vice President of **OPUS NORTHWEST, L.L.C.,** a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2005.

_____
Printed Name _____
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission Expires _____

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EXHIBIT A

BUILDING LAND LEGAL DESCRIPTION

Tax Parcels 031810046, 031810036, 031810055 and a portion of 031810040 consisting of approximately 2.93 acres described as :

AUTOMOBILE ADD UNREC BAAP ON NLY MGN OF N 175TH ST-50 FT NLY OF C/L OF SD ST - SD PT BEING N 89-06-00 W 377.00 FT FR W LN OF PLAT OF RONALD TERRACE TH N 00-53-00 E 100 FT TO TPOB TH N 89-06-00 W 112.35 FT TO W LN BLK 9 SD UNREC PLAT TH N 12-04-00 W 186.52 FT TO N LN S 1/2 OF S 1/2 OF SW 1/4 OF NE 1/4 STR 07-26-04 TH S 89-06-00 E 214.20 FT TH S 00-53-00 W 126.78 FT TH N 89-06-00 W 60 FT TH S 00-53-00 W 55 FT TO TPOB

AUTOMOBILE ADD UNREC E 37.18 FT OF 3 ALL 4 & W 74.82 FT OF 7 & POR OF 8-9 NLY & ELY OF LN BEG ON N OF 8 DIST 214.20 FT E OF NW COR TH S 00-53-00 W 126.78 FT TH E TO W LN OF 7 TGW E 77.18 FT OF S 88.15 FT OF 9

AUTOMOBILE ADD UNREC ALL 1-2 & 3 LESS E 37.18 FT & S 33.15 FT OF TR 9 LESS E 77.18 FT LESS CO RDS

AUTOMOBILE ADD UNREC E 225 FT LESS S 120 FT OF W 100 FT LESS CO RD

INCLUDING a vacated portion of Midvale Ave North consisting of 6,423 square feet lying Easterly of the following described line:

> **Beginning at a point on the South line of the North half of said subdivision, said point being 39.49 feet Easterly of the Easterly Margin of Old Seattle-Everett Interurban Railway Right of way as measured perpendicular to said Easterly Margin;**
>
> **Thence South 12°04'15" East, parallel with the tangent portion of said Easterly Margin, for a distance of 289.11 feet to North Margin of North 175th Street and the end of said line description.**

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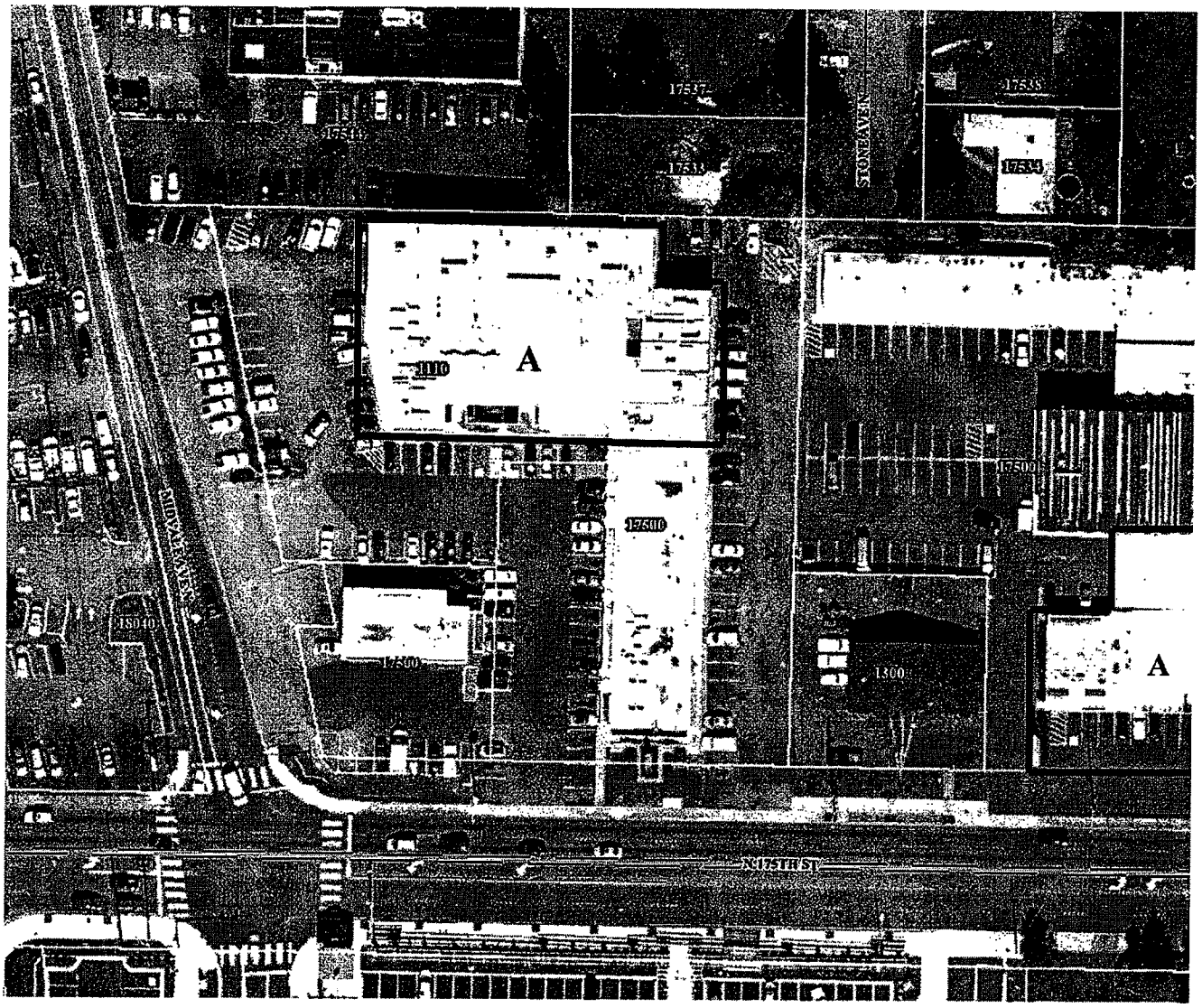
Exhibit A-1



A – Existing Buildings

Exhibit B

Project	
Org Key	2819148
Job Ledger	GN107900

Civic Center/City Hall

Expenditures By Project Phase	Prior Year Expenditures	2008 Amended Budget	Projected 2008	2009 Budget	2010 Budget	2011 Budget	2012 Budget	2013 Budget	Total Project Cost
Project Administration	195,903	173,674	173,674	-	-	-	-	-	369,577
Real Estate Acquisition	5,772,342		-	-	-	-	-	-	5,772,342
Construction	494,590	1,701,977	1,701,977	28,403,433	-	-	-	-	30,600,000
Total Project	**$ 6,462,835**	**$ 1,875,651**	**$ 1,875,651**	**$ 28,403,433**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 36,741,919**

Project Revenue Sources	Prior Year Revenue	2008 Amended Budget	Projected 2008	2009 Budget	2010 Budget	2011 Budget	2012 Budget	2013 Budget	Total Project Revenue
King County Green Building Grant			-	20,000	-	-	-	-	20,000
Surface Water Utility Contribution			-	300,000	-	-	-	-	300,000
General Fund Cont. - Budget Savings 2006-2008	2,882,961	1,261,649	1,261,649	-	-	-	-	-	4,144,610
General Fund Cont - Prior to 12/31/2005	7,008,711	-	-	-	-	-	-	-	7,008,711
General Fund Cont - Annex Lease Savings	288,000	300,000	300,000	150,000	-	-	-	-	738,000
General Fund Cont. - Annex Lease Revenue	50,410	24,590	24,590	-	-	-	-	-	75,000
Real Estate Excise Tax	1,273,708	400,000	400,000	1,661,000	-	-	-	-	3,334,708
Investment Interest		480,000	480,000	-	-	-	-	-	480,000
Municipal Financing		-	-	20,640,890	-	-	-	-	20,640,890
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
					-	-	-	-	-
Total Revenue	**11,503,790**	**$ 2,466,239**	**$ 2,466,239**	**$ 22,771,890**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 36,741,919**

Project Time Line:		2008	2009	2010	2011	2012	2013
Project Administration		Q1					
Real Estate Acquisition							
Construction		Q2 Q3 Q4	Q1 Q2 Q3 Q4				

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