

REPORT TO THE CITY COUNCIL
OF THE CITY OF PROVIDENCE, RHODE ISLAND

The Providence Redevelopment Agency, pursuant to Sections 45-32-5(1)(k) and 45-32-48 of the General Laws of Rhode Island, submits to the City Council of the City of Providence, Rhode Island, this report pertaining to the proposed lease of real property by the Agency.

The Agency proposes to lease certain parcels of land located at 16 Empire Street (the "LaSalle Square Site") and 111 Fountain Street (the "Fogarty Building") pursuant to one or more lease agreements (the "Lease"). The Agency proposes to lease such parcels to the City of Providence at a rental equal to the amount of debt service payable under certain obligations issued by or on behalf of the Agency (the "Obligations"). The proceeds of the Obligations will be used by the Agency to finance the redevelopment of the Fogarty Building for use as an interim facility of the Police and Fire Departments or for use by various municipal departments, agencies or non-profit agencies, and the acquisition and preparation of the LaSalle Square Site for development. The proposed Lease will provide that upon termination of the Lease, or at any time prior thereto, the City may exercise an exclusive option to purchase the Fogarty Building and the LaSalle Square Site from the Agency at a price equal to the amount required to retire the Obligations. The Lease would be substantially in the form attached hereto as Exhibit A.

Respectfully submitted,

Dated: May 28, 1999



John Palmieri
Executive Director

LEASE AND AGREEMENT
(FOGARTY BUILDING AND LASALLE SQUARE PROJECT)

BETWEEN

THE PROVIDENCE REDEVELOPMENT AGENCY

AND

THE CITY OF PROVIDENCE

Dated as of June __, 1999

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LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Agreement") is by and between the PROVIDENCE REDEVELOPMENT AGENCY, created pursuant to Chapters 31 through 33, inclusive, of Title 45 of the General Laws of the State of Rhode Island, (the "Agency") and THE CITY OF PROVIDENCE, (the "City" or the "Lessee").

W I T N E S S E T H:

WHEREAS, the Agency has acquired from The City of Providence for redevelopment those certain parcels of land and improvements thereon located within the city of Providence, Rhode Island as more particularly described on Exhibit A hereto (the "Fogarty Building", and the "LaSalle Square Site", and collectively the "Project"); and

WHEREAS, the Agency is authorized by Chapters 45-31 through 45-33, inclusive, of the General Laws of Rhode Island (the "Act") to acquire real property in any area designated a redevelopment area in connection with its undertaking or carrying out a redevelopment project or formulating a redevelopment plan; and

WHEREAS, the City has agreed to lease the Project from the Agency pursuant to the terms and conditions set forth in this Agreement; and

WHEREAS, the Agency will, pursuant to the Act, provide for the payment of the cost of the of the Project by the issuance of its revenue bonds and notes payable from rentals to be received from the City pursuant to this Agreement; and

WHEREAS, the City and the Agency agree that their mutual public purposes and their best interests will be promoted by the execution and delivery of this Agreement pursuant to the powers conferred by the Act;

NOW, THEREFORE, the parties hereto mutually agree as follows:

ARTICLE I DEFINITIONS AND GENERAL PROVISIONS

SECTION 1.1 DEFINITIONS. The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

"Act" shall mean the Rhode Island Redevelopment Act, constituting Chapters 31 through 33, inclusive of Title 45 of the General Laws of Rhode Island, 1956 (1991 Reenactment), as amended.

"Agreement" shall mean this Lease and Agreement between the Agency and the City, and any and all modifications, alterations, amendments and supplements hereto made in accordance with the provisions hereof.

"Agency" shall mean the Providence Redevelopment Agency, a body corporate and politic, created pursuant to and existing under the Act, and any successor to its rights, duties and functions.

"Authorized Agency Representative" shall mean the Chairman or Executive Director of the Agency, if any, and any other person or persons authorized to act on behalf of the Agency by a written certificate signed on behalf of the Agency by the Chairman or Executive Director of the Agency, if any.

"Authorized City Representative" shall mean the Mayor of the City of Providence or any other person or persons authorized to act on behalf of the City by a written certificate signed by the Mayor.

"Basic Rent" shall have the same meaning as such term is set forth in SECTION 4.1(a).

"Bond" or "Bonds" shall mean any bond or bonds, as the case may be, issued under and pursuant to the General Bond Resolution and one or more Series Resolutions for the purposes of providing funds to pay the Cost of the Project established pursuant to the General Bond Resolution or the Series Resolution.

"Bond Insurer" shall mean any entity designated in a Series Resolution to provide insurance for any Bonds.

"City" shall mean City of Providence, Rhode Island.

"Cost" shall have the same meaning as such term is defined in the General Resolution.

"Debt Service" for any period shall mean, as of any date of calculation and with respect to all outstanding Bonds, an amount equal to the sum of (i) interest accruing during such period on the Bonds or Notes, and (ii) that portion of each principal maturity or sinking fund installment, if any, for the Bonds which would accrue during such period if such principal maturity or sinking fund installment were deemed to accrue daily in equal amounts from the next preceding due date thereof (or if there shall be no such preceding due date, from a date one year from the due date of such principal maturity or sinking fund installment of such Bonds or Notes).

"Debt Service Fund" shall mean the fund by that name created pursuant to the General Bond Resolution.

"Depository" shall mean each bank or trust company appointed pursuant to the provisions of the General Bond Resolution to act as a depository or in the event that Notes are issued prior to the issuance of Bonds, the bank or trust company appointed pursuant to the provisions of the Note Resolution to act as depository.

"General Bond Resolution" shall mean the resolution adopted by the Agency on June 11, 1991 entitled "Providence Redevelopment Agency General Bond Resolution", as the same may be amended, modified or supplemented in accordance with the provisions thereof.

"Lease Term" shall mean the duration of the leasehold estate created in this Agreement as specified in SECTION 2.2 hereof.

"Leased Land" shall mean those certain parcels of land owned by the Agency located within the city of Providence, Rhode Island as more particularly described on Exhibit A hereto.

"Lessee" shall mean the City of Providence, Rhode Island.

"Lessor" shall mean the Providence Redevelopment Agency.

"Note Interest Payment" for any period shall mean, as of any date of calculation, an amount equal to the interest accruing during such period on the Note.

"Note Interest Payment Date" shall mean the date on which a Note Interest Payment is due and payable pursuant to the provisions of the applicable Note Resolution.

"Note Resolution" shall mean any resolution or resolutions of the Agency authorizing the issuance of Notes.

"Notes" or "Notes" shall mean a note or notes of the Agency issued pursuant to a Note Resolution, the proceeds of which are applied to the Cost of the Project, but not including any Project Acquisition Promissory Note.

"Outstanding" shall have the same meaning as such term is given in Article 1, Section 101 of the General Bond Resolution.

"Permitted Encumbrances" shall mean and include:

(a) undetermined liens and charges incident to construction or maintenance, and liens and charges incident to construction or maintenance now or hereafter filed on record which are being contested in good faith and have not proceeded to judgment provided that the Agency shall have set aside adequate reserves with respect thereto;

(b) minor defects and irregularities in the title to the Project which do not in the aggregate materially impair the use of the Project for the purposes for which it is or may reasonably be expected to be held;

(c) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of the Project for the purposes for which it is or may reasonably be expected to be held;

(d) standard exceptions set forth on Schedule B Part I of the ALTA Owner's Title Insurance Policy form in use in the State;

(e) any obligations or duties affecting any portion of the Project of any municipality or governmental or other public authority with respect to any right, power, franchise, grant, license or permit; and

(f) this Agreement, the Series Resolution, the Note Resolution and the General Bond Resolution.

"Project" shall mean the redevelopment of the Fogarty Building and LaSalle Square Site through the acquisition, renovation, refurbishing, equipping and construction of additions to the Fogarty Building and the acquisition and site preparation of the LaSalle Square Site and any actions taken by the Agency in connection with the foregoing.

"Project Account" shall mean the Fogarty Building Project Account created pursuant to the General Bond Resolution, Series Resolution or the Note Resolution.

"Project Costs" shall mean all costs relating to the Project approved by the Agency and the financial thereof.

"Project Fund" shall have the same meaning as set forth in the General Bond Resolution.

"Rentals" shall mean the sum of Basic Rent, and Note Interest Payment Rent.

"Series Resolution" shall mean a resolution of the Agency authorizing the issuance of Bonds (whether or not such Bonds are part of a larger issue) in accordance with the terms and provisions of the General Bond Resolution.

"State" shall mean the State of Rhode Island and Providence Plantations.

"Trustee" shall mean the bank, trust company or national banking association appointed as trustee pursuant to the General Bond Resolution, Series Resolution, supplemental Resolution or Note Resolution.

ARTICLE II
LEASE OF PROJECT; TERM OF LEASE; PREPARATION
OF LEASED LAND; AND TITLE INSURANCE

SECTION 2.2 TERM OF LEASE. The Lease Term for the Project shall commence on the date of the initial issuance of Bonds or Notes by the Agency as to the Leased Land and shall terminate as to the leased land on June 15, 2021 unless sooner terminated or amended in accordance with the provisions of the Agreement.

If the City continues to use, occupy or maintain the Project after an event of non-appropriation or an event of default, the City will be liable for Rentals for any period the City continues to use, occupy or maintain the Project.

SECTION 2.3 ACQUISITION OF LEASED LAND. In cooperation with the State, the Authority shall promptly obtain good and marketable title to the Leased Land, free and clear of all liens, charges and encumbrances except for Permitted Encumbrances.

ARTICLE III
ACQUISITION, CONSTRUCTION, RENOVATION AND
INSTALLATION OF PROJECT AND RELATED FINANCING PROVISIONS

SECTION 3.1 ACQUISITION AND RENOVATION OF PROJECT. The Agency agrees that it will prepare or cause to be prepared the Plans and Specifications for the Project and upon the approval of such Plans and Specifications by the Authorized City Representative, it will acquire and install or cause to be acquired and installed the Project on the Leased Land in accordance with the Plans and Specifications. Notwithstanding the preceding sentence, the Agency may expend funds for engineering, architectural or other preliminary services, with the approval of the Authorized City Representative, prior to the preparation and completion of the Plans and Specifications. No change order to the Plans and Specifications shall be initiated or implemented by the Agency without the prior approval of the Authorized City Representative. The Agency agrees that it will use its best efforts to cause such acquisition and renovation to be completed as soon as may be practicable, delays incident to strikes, riots, acts of God, the public enemy or any delay beyond its reasonable control only excepted; but if for any reason such acquisition and renovation is delayed there shall be no diminution in or postponement of the amounts payable under this Agreement by the City.

The Agency shall be responsible for the letting of contracts for the Project, supervision of construction, preparation and implementation of change orders, acceptance of the completed Project or parts thereof, and all other matters incidental to the performance of the duties and powers expressly granted herein to the Agency in connection with the Project.

The Agency agrees that it shall require each Contractor engaged on the Project to provide a fixed price contract and a performance bond in an amount which is not less than 100% of its contract prices as security for the faithful performance of its contract and also a payment bond in an amount which is not less than 100% of its contract price as security for the payment of all persons performing labor or furnishing materials in connection with such contract. Such bonds shall be issued by a surety company or companies licensed to do business in the State and acceptable to the Agency. In lieu of furnishing such bonds, the Contractor may secure the faithful performance of its contract and secure the payment of all persons performing labor or furnishing materials in connection with such contract by providing an irrevocable letter of credit from a reputable lending institution satisfactory to the Agency in an amount equal to 100% of its contract price.

SECTION 3.2 ISSUANCE OF BONDS AND NOTES. In order to provide funds for payment of the Cost of the Project, the Agency will use its best efforts to issue, sell and deliver Notes and/or Bonds. The proceeds of the Notes and Bonds shall be applied as provided for in the General Bond Resolution, the Series Resolution or the Note Resolution, as the case may be.

SECTION 3.3 PROJECT ACCOUNT. The Trustee is authorized and directed pursuant to the provisions of the General Bond Resolution, the Series Resolution and/or Note

Resolution, as the case may be, to make payments from the Project Account to pay the Cost of the Project upon receipt of a requisition signed by an Authorized Agency Representative and certified by the Architect, Consulting Engineer or the Authorized City Representative stating with respect to each payment to be made; (1) the requisition number, (2) the name and address of the person, firm or corporation to whom payment is due or has been made, (3) the amount to be paid and (4) that each obligation, item of cost or expense mentioned therein has been properly incurred, is an item of Cost of the Project and is a proper charge against the Project Account and has not been the basis of any previous withdrawal.

SECTION 3.4 COMPLETION DATE. The completion date of the Project shall be evidenced to the City, Trustee and the Bond Insurer by a certificate of an Authorized Agency Representative and the appropriate Consulting Engineer and the Architect for the Project stating that the Project has been completed substantially in accordance with the Plans and Specifications and the payment of the Cost or adequate provision therefor has been made. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. If, upon the completion of any of the Project, there shall be any surplus funds remaining in the Project Account for such Project not required to provide for the payment of the Cost of such Project, such funds, at the election of the Agency, shall be deposited in the Redemption Fund or shall be applied to the payment of the Cost of another Project of the Agency so long as such other Project was financed by the same Series of Bonds as the Project funded by said Project Account.

SECTION 3.5 DEFAULT IN CONTRACTORS' PERFORMANCE. In the event of default of any Contractor or Subcontractor under any contract made in connection with the Project, the Agency will promptly proceed, either separately or in conjunction with others or by or through the Contractor in the case of default by Subcontractors, to exhaust the remedies of the Agency against the Contractor or Subcontractor so in default and against each surety company on its performance bond for the performance of such Contractor. The Agency agrees to advise the Authorized City Representative in writing of the steps it intends to take in connection with any such default. If the Agency shall so notify the Authorized City Representative, the Agency may in good faith prosecute or defend any action or proceeding or take other action involving any such Contractor, Subcontractor or surety which the Agency deems necessary. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, less the reasonable costs of recovery, shall be paid into the Project Account or the Redemption Fund or shall be applied to the payment of the Cost of another Project of the Agency so long as such other Project was financed by the same Series of Bonds as the Project funded by said Project Account.

SECTION 3.6 COST OF THE PROJECT.

(a) The Agency and the City agree that the probable aggregate Cost, as determined in accordance with the best available estimates, is approximately [] Dollars (\$[]) and that the proceeds of sale of the Notes and/or Bonds presently

scheduled to be issued by the Agency, viz. [] Dollars (\$[]) (such Notes and/or Bonds are hereinafter referred to in this SECTION 3.6 as the "Initial Notes and Bonds"), if any, and other funds to be supplied by or on behalf of the City will be sufficient to pay the Cost. In the event that the Cost of the Projects shall exceed the amount available to the Agency from the proceeds of sale of the Initial Notes and Bonds, and from such other funds to be supplied by or on behalf of the City, the City shall pay, as Additional Rent, such sums as may be required to pay the Cost of the Project in excess of the aforesaid amounts available to the Agency. Any cost over-runs on the Projects will be paid for by the City from any legally available funds.

Payment of such Additional Rent shall be made by the City to or upon the direction of the Agency at the time or times and in the amount or amounts required for the payment of such excess Costs as the same become due and payable.

(b) The Authorized City Representative may request the Agency to issue additional Notes and Bonds in excess of the amount of the Initial Notes and Bonds in order to provide for the payment of the excess Cost specified in paragraph (a) above and the Agency shall thereupon use its best efforts to issue such additional Notes and Bonds for such purpose; provided, however, that the failure of the Agency to issue such additional Notes and Bonds shall not release the City from any provisions of this Agreement, including the provisions specified in paragraph (a) hereof.

ARTICLE IV RENTALS AND OTHER PAYMENTS

SECTION 4.1 PAYMENT OF RENTALS.

(a) The Lessee shall pay to the Agency, as Basic Rent, at such times as shall permit the Agency to make payments upon the Notes and any Notes or Bonds issued to refund the Notes in accordance with their terms.

(b) The City shall pay to or upon demand at the direction of the Agency the amount by which the balance in the Debt Service Reserve Fund with respect to the Notes or Bonds, is less than the Debt Service Requirement as those terms are defined in the General Resolution, any Series Resolution, or Note Resolution.

(c) The City shall pay to or upon the direction of the Agency the Additional Rent specified in paragraph (a) of SECTION 3.6 at the times and in the amounts specified in SECTION 3.6.

(d) The City shall pay to the Agency, as Additional Rent, within 10 days of receiving a certificate of the Agency setting forth and directing the City to pay the amount, if any,

by which the Rebate Requirement exceeds amounts previously paid over to the Agency as part of the Rebate Requirement plus any investment earnings thereon.

Any Rentals pursuant to this SECTION 4.1 which are not paid by the City on or before the due date thereof shall, from and after said due date, bear interest (to the extent permitted by law) at the highest rate per annum borne by any of the Bonds or Notes of the Agency until paid, time being of the absolute essence of this obligation.

Any prepayment of Rentals under this Agreement shall be equal to the principal amount of the Bonds or Notes, the redemption premium, if any, and all interest accrued and to accrue on the Bonds and Notes to their redemption date or their maturity date, whichever is earlier, and any expenses In connection with such payment in full.

SECTION 4.2 INDEMNIFICATION OF AGENCY.

(a) Both during the Lease Term and thereafter, the City shall indemnify and hold the Agency harmless against, and the City shall pay any and all, liability, losses, costs, damages, claims, judgments or expenses, of any and all kinds or nature and however arising, imposed by law, and without regard to any insurance, which the Agency may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon (i) bodily injury, death, or damage to property, whether real, personal or mixed, (ii) matters related to the title of the Agency with respect to the Leased Land including matters related to Permitted Encumbrances, or (iii) contracts entered into by the City with respect to the acquisition, use, occupancy, maintenance repair or operation of the Project by the City. It is mutually agreed by the City and the Agency that neither the Agency nor its members, officers, agents, servants or employees shall be liable in any event to the City for any action performed under this Agreement.

(b) With respect to the claims, suits and actions with respect to which the City has agreed to indemnify the Agency pursuant to paragraph (a) above, the City at its own cost and expense, shall defend any and all such claims, suits and actions which may be brought or asserted against the Agency, its members, officers, agents, servants or employees; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for in this Agreement from its obligation to defend the City, the Agency and any other insured named in such policy of insurance in connection with claims, suits or actions covered by such policy.

(c) With respect to the claims, suits and actions with respect to which the City has agreed to indemnify the Agency pursuant to paragraph (a) above, the Agency agrees as follows:

(i) The Agency shall give the Authorized City Representative prompt notice in writing of the filing of each such claim and the institution of each such suit or action;

(ii) The Agency shall not adjust, settle or compromise any such claim, suit or action;

(iii) The Agency shall permit the City to assume full control of the adjustment, settlement, compromise or defense of each such claim, suit or action.

(d) With respect to the claims, suits and actions with respect to which the City has agreed to indemnify the Agency pursuant to paragraph (a) above, any cost for attorneys' fees in situations where it is necessary for the Agency to engage its own attorneys, experts' testimony costs and all costs to defend the Agency or any of its members, officers, agents servants, or employees shall be reimbursed to them by the City.

SECTION 4.3 LIABILITY FOR DAMAGE TO PROPERTY. If any of the acquisition or demolition necessary for maintenance or redevelopment of the Project under this Agreement is performed at the request of the Agency by the City and such causes damage to property, the City shall be liable therefor, but this provision shall not be deemed to create any liability not already existing by statute.

SECTION 4.4 INABILITY OF AGENCY TO SELL BONDS OR NOTES. If by reason of the judgment, decree or order of any court of competent jurisdiction, or of litigation pending or threatened, or of any fact or circumstances, other than neglect or refusal of the Agency to perform its obligations under this Agreement, the Agency should be rendered unable to issue and sell Bonds or Notes to pay when due any Notes, the Agency shall promptly advise the City of such inability to issue and sell and shall advise the City of such inability to pay at least sixty (60) days prior to the earliest date on which such Notes shall become due by a notice in writing given to the Authorized City Representative. Upon receipt of such written notice, the City shall:

(a) If there are no Bonds Outstanding, exercise its option to purchase the Project pursuant to SECTION 8.2 of this Agreement at the purchase price set forth in SECTION 8.3 of this Agreement on a date not later than the earliest date in which such Notes shall become due; or

(b) If there are Bonds Outstanding, the City shall pay to the Agency, on a date not later than the earliest date on which such Notes become due, as a prepayment of Rent, an amount equal to the difference between the amount of principal, premium, if any, and all interest accrued and to accrue on such Notes on their maturity date or earliest redemption date, whichever is earlier, and any expenses in connection with such payment in full, and the amount of Note proceeds, if any, available for the payment of such principal and interest; and notwithstanding any other provision of this Agreement, the Agency shall hold and use the moneys so paid by the City and such Note proceeds, if any, available for payment of such principal and interest for the

sole purpose of paying the principal and interest on such Notes in accordance with the General Bond Resolution and/or Note Resolution.

To the extent that the provisions of this SECTION 4.4 are implemented, Note Interest Payment Rents due and payable under SECTION 4.1(a) of this Agreement shall be applied as a credit against the amounts required to be paid pursuant to this SECTION 4.4.

SECTION 4.5 NATURE OF OBLIGATIONS OF THE CITY. Except as hereinafter provided in this SECTION 4.5, the obligations of the City to pay Rentals and to pay all other amounts provided for in this Agreement and to perform its obligations under this Agreement shall be absolute and unconditional, and such Rentals and other amounts shall be payable without any rights of setoff, recoupment or counterclaim the City might have against the Agency, the Trustee or any other person and whether or not the Project is maintained, used or occupied by the City or available for use or occupancy by the City.

Notwithstanding anything in this Agreement to the contrary, the cost and expense of the performance by the City of its obligations under this Agreement and the incurrence of any liabilities of the city under this Agreement, including, without limitation, the payment of all Rentals and amounts payable under SECTION 4.4 of this Agreement and the payment of all other amounts required to be paid by the City under this Agreement, shall be subject to and dependent upon appropriations being made from time to time by the City Council of the City with respect to the City for such purpose.

The City will not terminate this Agreement (other than such termination as is provided for hereunder) for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title, or frustration of purpose, or any damage to or destruction of the Project, or the taking by eminent domain of title to or the right of temporary use of all or any part of the Project, or the failure of the Agency to perform and observe any agreement or covenant, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement.

The City hereby covenants that it will do all things lawfully within its power to obtain, maintain and properly request and pursue appropriations sufficient to permit the Rentals to be made, including making provisions for such Rental payments in budgets submitted for the purpose of obtaining appropriations, using its bona fide best efforts to have such portion of the budget approved and exhausting all available administrative reviews and appeals if any in the event such portion of the budget is not approved.

The City hereby covenants that it shall include in its proposed budget, with a copy to Bond Insurer, if any, for each fiscal year a single appropriation for the Project in an amount sufficient to make payments of rentals and of all other amounts required to be paid hereunder.

SECTION 4.6 NATURE OF OBLIGATIONS OF THE AGENCY. The cost and expense of the performance by the Agency of any of its obligations under this Agreement shall be limited to the availability of the proceeds of Bonds or Notes of the Agency issued for such purposes or from other funds received by the Agency under this Agreement and available for such purposes.

SECTION 4.7 PLEDGE OF PAYMENTS BY AGENCY. It is expressly understood and agreed by the parties hereto that the Agency may pledge the Rental payments specified in SECTION 4.1 hereof to the Trustee under the General Bond Resolution. Except as provided in SECTIONS 7.2 and 9.2 of this Agreement, the Agency shall not sell or otherwise encumber its interest in the Project, except for Permitted Encumbrances.

ARTICLE V
OPERATION, MAINTENANCE AND REPAIR; INSURANCE;
DAMAGE; DESTRUCTION AND CONDEMNATION

SECTION 5.1 MAINTENANCE AND REPAIR. During the Lease Term, the City, shall be responsible for, and pay any and all costs of operating the Project maintaining the same in good condition; and making all necessary repairs and replacements, interior and exterior, structural and nonstructural. The City shall give written notice to the Agency prior to undertaking any repairs or replacements in excess of \$10,000 other than completion of the Project. Upon the discovery of material neglect in the maintenance and repair of the Project by the City, the Agency may elect to undertake such maintenance and repairs, and to make such replacements as the Agency shall deem appropriate in its sole discretion; and all amounts so advanced therefor by the Agency shall become an additional obligation of the City to the Agency, which amounts the City agrees to pay to the Agency upon demand.

Upon request of the Agency, the City beginning on the first day of the month following receipt of such request, and on the first day of each month thereafter shall make monthly deposits with the Agency of one-twelfth of the estimated annual amounts reasonably determined by the Agency to be necessary to provide for such maintenance, repair and replacement of the Project. Such account shall be under the control, discretion and supervision of the Agency, and shall be applied toward the obligations of the City set forth in the previous paragraph.

SECTION 5.2 UTILITIES. The City will pay or cause to be paid in a timely manner, all charges for water, electricity, light, heat or power, sewage, telephone and other utility service, rendered or supplied upon or in connection with the Project during the Lease Term.

SECTION 5.3 ADDITIONAL RIGHTS OF CITY. The Agency agrees that the City shall have the right, option and privilege of erecting, renovating and maintaining at its own cost and expense such standard partitions, railings, doors, gates, counters, lighting fixtures, signs

and such equipment in or upon the Project as may in the Authorized City Representative's judgment be necessary for its purposes. The City shall give notice to the Agency prior to renovating or erecting any improvements or installing any equipment exceeding \$10,000 in cost. It is further understood and agreed that anything erected or renovated under the provisions of this Section shall be and remain the personal property of the City and shall not become part of the Project, and may be removed, altered or otherwise changed, upon or before the termination of this Agreement; provided, however, any damage caused by such removal shall be repaired by the City.

SECTION 5.4 INSURANCE.

(a) At all times during construction of the Project, and until the Project is available for use by the City, the Agency shall maintain or cause to be maintained with responsible insurers authorized to do business in the State or in such other manner as may be required or permitted by law, the following kinds and the following amounts of insurance with respect to the Project, with such variations as shall reasonably be required to conform to customary insurance practice:

(i) Builder's risk insurance regarding structures and facilities designed as part of the Project as is customarily carried by owners of rental buildings with respect to such buildings when under construction, in an amount equal to 100% of the value of the Project less noninsurable items. Such insurance may include a reasonable deductible not to exceed \$25,000. The net proceeds of any such insurance, after deduction therefrom of expenses of collection, shall be deposited in the Project Account and be applied to pay the Cost of the Project.

(ii) Such public or comprehensive liability insurance as shall afford protection to the Agency in the minimum amount of \$1,000,000 liability for any one person and \$3,000,000 liability for any one occurrence for bodily injury, and \$500,000 liability for any one occurrence for property damage, with a deductible amount of not more than \$25,000 per person and \$50,000 aggregate, and such insurance shall protect the Agency against reasonably insurable penalties, costs, including attorneys' fees, claims, demands and causes of action due directly or indirectly to the use, disuse, misuse or interest in the Project. Such insurance may, at the election of the Agency, be in the form of single limit coverage in the minimum amount of \$3,000,000.

(iii) Such other and additional insurance (including worker's compensation insurance) as is customarily carried by others in similar circumstances with respect to similar property or structures and facilities.

To the extent, however, that any part of said insurance is carried by others for the benefit of the Agency, the Agency shall not be obligated hereunder to procure or maintain such part of said insurance.

(b) Immediately upon the availability of the Project or any portion thereof for use by the City, as evidenced by written notice thereof from the Agency to the City, and thereafter during the Lease Term, the City agrees to pay for or provide and maintain comprehensive general liability coverage which will pay on behalf of the Agency all sums which the Agency shall become legally obligated to pay as damages because of bodily injury or death and property damage caused by any occurrence at or in connection with the City's use, occupancy or operation of the Project and the Agency shall be a named insured.

Such insurance shall afford protection to the Agency in the minimum amount of \$3,000,000 combined single limit per occurrence for bodily injury and property damage liability, \$3,000,000 limit per person/organization for Personal Injury/Advertising Injury Liability with a general aggregate "Per Location" and with a deductible amount of not more than \$25,000 per person and \$50,000 aggregate, and such insurance shall protect the Agency against reasonably insurable penalties, costs, including attorneys' fees, claims, demands and causes of action due directly or indirectly to the use, disuse, misuse or interest in the Project..

(c) Immediately upon the availability of any portion of the Project for use by the City, as evidenced by written notice thereof from the Agency to the City, and thereafter during the Lease Term, the City shall pay for or provide and maintain with responsible insurers authorized to do business in the State, or in such other manner as may be required or permitted by law (any self-insurance program must be approved by Bond Insurer), so called "All Risk" property insurance and earthquake and flood insurance on the Project including a replacement cost endorsement, and insurance against such other risks as are generally maintained for the type of and use to which the Project is put, in an amount not less than the current full insurable replacement value thereof (exclusive of excavations and foundations but inclusive of debris removal costs) as determined by the Authorized City Representative with the approval of the Authorized Agency Representative and adjusted, if required, annually with a deductible amount of not more than \$25,000. However, earthquake and flood insurance shall be required only if it is available on reasonable terms and reduced limits of Flood and Earthquake insurance as well as annual aggregate limits and higher deductibles on these coverages are permitted in keeping with prudent risk management principles and the condition of the insurance market. Coinsurance must be waived by an "Agreed Amount" clause or equivalent wording.

(d) during the Lease Term, the City shall pay for or provide and maintain with responsible insurers authorized to do business in the State or in such other manner as may be required or permitted by law, any other insurance reasonably requested by the Agency to protect the Project. Any self-insurance program must be approved by the Bond Insurer.

(e) All insurance policies obtained by the City under this Agreement shall be open to inspection by the Agency, the Bond Insurer, and the Trustee at all reasonable times. A complete description of all such policies shall be furnished annually by the Authorized City Representative to the Agency and the Trustee and if any change shall be made in any such insurance, a description and notice of such change shall be furnished by the Authorized City Representative to the Agency and the Trustee at the time of such change. If a loss deductible for insured property perils or liability is selected and incorporated into the City's property coverages, it shall be done with the approval of the Agency. The City shall then be responsible for the amount of the deductible that the Agency shall incur from each loss for insured perils or liability.

(f) In lieu of separate policies, the City may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Authorized City Representative shall deposit with the Agency and the Trustee a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Project. If blanket property insurance is purchased covering all locations leased by the City from the Agency, a property limit equal to 90% of the total insurable replacement value will be deemed to satisfy the limits required in this SECTION 5.4. At least thirty (30) days prior to the expiration dates of any insurance policies the City is required to maintain under this SECTION 5.4, the City will deliver or cause to be delivered to the Agency and Trustee and Bond Insurer evidence of the renewal thereof.

(g) In the event of failure of the City to pay any premium or other charge with respect to the insurance which it is obligated to procure and maintain pursuant to this SECTION 5.4, the Agency may pay such premium and secure and maintain such policy at the cost and expense of the City.

(h) Each policy of insurance shall contain a provision that no act or omission of the City shall affect or limit the obligation of the insurer to pay the Agency or Trustee the amount of any loss sustained.

All property and builder's risk policies required by this SECTION 5.4 shall be carried in the names of the City, the Agency and the Trustee as their respective interests may appear and shall contain standard clauses which provide for the net proceeds of insurance in excess of \$10,000 resulting from claims per casualty thereunder to be made payable directly to the Trustee to be applied pursuant to the provisions of SECTION 5.5 of this Agreement. All liability and umbrella policies required by this SECTION 5.4 shall be carried in the names of the Agency and the Trustee with the City designated as an additional insured by obtaining endorsement CG 20261185 or a similar endorsement for liabilities and claims arising from the use, disuse, misuse or interest in the Project. All policies required under this SECTION 5.4 shall provide for at least 30 days' notice of cancellation to the City, the Agency and the Trustee.

(i) Notwithstanding any of the foregoing provisions of this Section, the City shall not be required to obtain or maintain any class or type of insurance required by this

Agreement for which it is authorized and able to obtain and maintain an appropriate substitute arrangement under which the Agency would be fully protected to the extent required hereunder or under which assurance will be provided that funds will be available to repair, rebuild or replace the Project upon damage, loss or destruction of the Project, or under which moneys would be available to the City from a lawful source to pay the Rentals and other payments required under this Agreement in the event of damage, loss or destruction of the Project. No such arrangement or arrangements shall be substituted by the City for the insurance required to be obtained and maintained pursuant to the foregoing provisions of this Section, unless and until each such arrangement shall have been approved in writing by the Agency, the Trustee and the Bond Insurer.

SECTION 5.5 DAMAGE, LOSS, THEFT OR DESTRUCTION. The Authorized City Representative agrees to notify the Agency and the Trustee immediately in the case of damage to or loss, theft or destruction of the Project or any portion thereof resulting from fire, theft, vandalism or other casualty. In the event that the amount of any such damage, loss, theft or destruction does not exceed \$250,000, the City will forthwith repair, reconstruct and restore the Project to substantially the same condition as it existed prior to the event causing such damage or destruction and will apply the net proceeds of any insurance relating to such damage received by the City to the payment or reimbursement of the costs of such repair, reconstruction and restoration. So long as the City is not in default hereunder, any net proceeds of insurance relating to such damage, loss, theft or destruction received by the Trustee shall be deposited in the applicable Project Account and be applied to such payment or reimbursement. The Agency agrees that the net proceeds of any insurance relating to such damage, loss, theft or destruction, not exceeding \$10,000, may be paid directly to the City.

In the event the Project or any portion thereof is damaged or destroyed by fire, theft or other casualty and the damage or destruction is estimated to exceed \$250,000, then the City shall within ninety (90) days after such damage, loss, theft, or destruction elect one of the following two options by written notice of such election to the Agency and the Trustee:

(a) **Option A - Repair and Restoration.** The City may elect to repair, reconstruct, replace and restore the Project. In such event the City shall proceed forthwith to repair and restore the Project to substantially the same condition as it existed prior to the event causing such damage, loss, theft or destruction. So long as the City is not in default hereunder, any net proceeds of insurance relating to such damage, loss, theft or destruction received by the Trustee shall be deposited in the Project Fund or applicable Project Account and be applied, together with the proceeds of any additional Notes and Bonds issued by the Agency to finance the Cost of such repair and restoration, to complete the payment of the Cost of such repair and restoration, in the same manner and upon the same condition as set forth in SECTION 3.3 hereof for the payment of the Cost of the Project from the Project Fund or applicable Project Account.

It is further understood and agreed that in the event the City shall elect this Option A the City shall complete the repair and restoration of the Project,

whether or not the net proceeds of insurance received by the City or the Trustee for such purposes are sufficient to pay for the same, and shall deliver to the Agency and the Trustee a certification of completion of such repair and restoration.

(b) Option B - Prepayment of Rent. The City may elect to have the net proceeds of insurance payable as a result of such damage, loss, theft or destruction applied to the prepayment of Rentals hereunder. In such event the City shall, in its notice of election to the Agency and the Trustee, direct that such net proceeds, when and as received, be deposited as provided in the General Bond Resolution.

SECTION 5.6 CONDEMNATION. This Agreement and the interest of the City shall terminate as to the Project or a material portion thereof condemned or taken for any public or quasi-public use when title thereto vests in the party. condemning or taking the same (hereinafter referred to as the "termination date"). The City hereby irrevocably assigns to the Agency all right, title and interest of the City in and to any net proceeds of any award, compensation or damages (hereinafter referred to as an "award"), payable in connection with any such condemnation or taking during the Lease Term. Such net proceeds shall be initially paid to the Trustee for disbursement or use as hereinafter provided.

In the event of any such condemnation or taking, the city shall within ninety (90) days after the termination date therefor elect one of the following two options by written notice such election to the Agency and the Trustee:

(a) Option A - Repairs, Replacement, Reconstruction or Relocation. The city may elect to use the net proceeds of the award made in connection with such condemnation or taking for the repair, replacement, reconstruction or relocation of any and all improvements to the Project. In such event, so long as the City is not in default hereunder, any such net proceeds received by the Trustee shall be deposited in the Project Fund or applicable Project Account and be applied together with the proceeds of any additional Notes and Bonds issued by the Agency to finance the Cost of such repair, replacement, reconstruction or relocation, to complete the payment of the Cost of such repair, replacement, reconstruction or relocation, in the same manner and upon the same conditions set forth in SECTION 3.3 hereof for the payment of the Cost of the Project from the Project Fund or applicable Project Account.

(b) Option B - Prepayment of Rent. The City may elect to have the net proceeds payable as a result of condemnation applied to the prepayment of Rentals hereunder. In such event the City shall, in its notice of election to the Agency and the Trustee, direct that such net proceeds, when and as received, be deposited as provided in the General Bond Resolution.

Notwithstanding the foregoing, the obligation of the City to pay Rentals for that portion of the Project not condemned or taken for any public or quasi-public use when title vests

in the party condemning or taking the same shall survive such condemnation as long as any Bonds or Notes are Outstanding.

The Agency shall cooperate fully with the City in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof and will, to the extent it may lawfully do so, permit the City to litigate in any such proceeding in the name and on behalf of the Agency. In no event will the Agency voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the written consent of the City.

SECTION 5.7 IMPOSSIBILITY OF COMMENCEMENT OF PROJECT. The Agency agrees that the acquisition, renovation, construction and equipping of the Project will be commenced and completed as promptly as practicable after receipt of the proceeds of the sale of the Bonds or Notes, delays incident to strikes, riots, acts of God, the public enemy, or circumstances beyond the reasonable control of the Agency only excepted, but if such acquisition, renovation, construction and equipping are not commenced within a reasonable time, the proceeds of the sale of the Bonds or Notes remaining in the Project Account shall be transferred into a sub-account of the Redemption Fund and in accordance with the written instructions of the Agency and the City to the Trustee be used as provided in the General Bond Resolution, the Series Resolution or the Note Resolution for the redemption of any Bonds or Notes Outstanding which relate to this Project.

SECTION 5.8 NET LEASE. This Agreement shall be deemed and construed to be a "net lease", and the City shall pay absolutely net during the Lease Term the Rentals and all other payments required under this Agreement, free of all deductions, without abatement, diminution and set-off.

ARTICLE VI SPECIAL COVENANTS

SECTION 6.1 CITY'S RIGHT TO POSSESSION. Except as otherwise provided herein the City shall have the right to sole possession of the Project during the Lease Term.

SECTION 6.2 QUIET ENJOYMENT; SUBORDINATION TO MORTGAGE; AND NON DISTURBANCE AND ATTORNMENT. The Agency covenants and agrees with the City that upon the City's paying all of the Rentals and other payments required under this Agreement and observing and performing all the terms, covenants, and conditions on the City's part to be observed and performed, the City may peaceably and quietly have, hold and enjoy the Project, subject to the Permitted Encumbrances.

This Agreement is hereby made subject and subordinate to the Mortgage and to any modification or extensions thereof, subject to the provisions of the Mortgage providing that if the City has not been responsible for a continuing event of default hereunder, then its rights

and possession hereunder shall not be disturbed. Notwithstanding any foreclosure, the City shall attorn to any successor in title to the Agency.

SECTION 6.3 COMPLIANCE WITH LAWS AND REGULATIONS. The City will, at its own cost and expense, promptly comply with, or cause to be complied with, all laws, rules, regulations and other governmental requirements, whether or not the same require structural repairs or alterations, which may be applicable to the City and the Project on the use or manner of use of the Project. The City will also observe and comply with the requirements of all policies and arrangements of insurance at any time in force with respect to the Project. Costs and expenses hereunder shall be paid by the City as Additional Rent.

SECTION 6.4 COVENANT AGAINST WASTE. The City covenants not to do or suffer or permit to exist any waste, damage, disfigurement or injury to, or public or private nuisance upon, the Project.

SECTION 6.5 RIGHT OF INSPECTION. The City covenants and agrees to permit the Agency and the authorized agents and representatives of the Agency to enter the Project at all times during usual business hours for the purpose of inspecting the same.

SECTION 6.6 CONDITION OF PREMISES. Immediately upon the availability of any part of the Project for use by the City, the City shall become thoroughly familiar with the physical condition of such part of the Project. The City shall promptly notify the Agency in writing of any defects it finds in the construction of the Project and cause the same to be repaired. The Agency makes no representations whatever in connection with the condition of the Project, and the Agency shall not be liable for any defects therein and the City waives all claims or rights it may have under law against the Agency for the making of any such repairs.

SECTION 6.7 ASSIGNMENT BY CITY AND THE AGENCY. The City will not sell, sublease or otherwise dispose of or encumber its interest in the Project except as provided in this SECTION 6.7 or in SECTION 6.8 hereof. This Agreement may not be assigned by the City; provided, however, that nothing in this SECTION 6.7 shall prohibit the licensing or other operating arrangement for the Project or any part thereof, PROVIDED that no such licensing or other arrangement shall relieve the City from primary liability for any of its obligations hereunder, and in any event the City shall remain primarily liable for the payments specified in this Agreement and for performance and observance of the other agreements on its part herein provided and the Agency shall have consented to any such arrangement in writing, which consent shall not be unreasonably withheld. The Agency may assign all of its rights under this Agreement to the Trustee.

The City shall not enter into any licensing or operating arrangement for the Project if such licensing or operating arrangement would cause the interest on any of the Bonds or Notes then outstanding to lose their exclusion from gross income for purposes of federal income taxation. Before entering into such licensing or operating arrangement, the City shall obtain the

opinion of nationally recognized bond counsel that interest on the Bonds or Notes then outstanding will not lose its exemption from federal income taxation.

SECTION 6.8 SUBLETTING. The City may rent or sublease space in the Project to appropriate City departments, agencies or employees and may also sublease space in the Project (a) to City departments and agencies and (b) where appropriate, in excess of the requirements of City departments, agencies and employees, and to others, as determined by the Authorized City Representative, in each case with the prior written consent of the Agency (which consent shall not be unreasonably withheld). No sublease shall have any adverse affect upon this Agreement or affect or reduce the City's obligations hereunder. No sublease to the Agency shall become merged in the fee title.

The City shall not rent, sublease or otherwise dispose of all or any portion of the Project if such rental, sublease or disposition would cause the interest on any of the Bonds or Notes then outstanding to lose their exclusion from gross income for purposes of federal income taxation. Before such renting, subleasing or other disposal, the City shall obtain the opinion of nationally recognized bond counsel that interest on the Bonds or Notes then outstanding will not lose its exemption from federal income taxation.

SECTION 6.9 COOPERATION BY THE CITY. The City shall give the Agency its full cooperation and assistance in all matters relating to the Project.

The City agrees that, whenever requested by the Agency, it shall provide and certify, or cause to be provided and certified, in form satisfactory to the Agency, such information concerning the City and the Project, the operation and finances of the City and such other matters that the Agency considers necessary to enable it to complete and publish an official statement or other similar document relating to the sale of Bonds or Notes, or to enable the Agency to make any reports required by law or governmental regulations in connection with any of the Bonds or Notes.

SECTION 6.10 COVENANT AS TO TAX EXEMPTION. The City covenants that it will at all times do and perform all acts and things permitted by law including paying rebate on the Notes and necessary or desirable in order to assure that interest paid by the Agency on the Bonds or Notes shall be and remain excludable from gross income for purposes of federal income taxation.

SECTION 6.11 DISCHARGE OF LIENS.

(a) The City will not create or permit to be created or to remain, and will discharge, any lien, encumbrance or charge (levied on account of any mechanic's, laborer's or materialman's lien or any conditional sale, title retention agreement or chattel mortgage, or otherwise) upon the Project or any part thereof or the income therefrom, having any priority or preference over or ranking on a parity with the estate, rights and interest of the Agency in the

Project or any part thereof or the income therefrom, other than liens resulting from acts or the failure to act by the Agency, and the City will not suffer any other matter or thing whereby the estate, rights and interest of the Agency in the Project or any part thereof might be impaired.

(b) If any mechanic's, laborer's or materialman's lien shall at any time be filed against the Project resulting from work or materials furnished to or at the request of the City, the City, within sixty (60) days after notice of the filing thereof, will cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If the City shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, the Agency may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event the Agency shall be entitled, if the Agency so elects, to compel the prosecution of an action for the foreclosure of such lien by the lien or and to pay the amount of the judgment in favor of the lien or with interest, costs and allowances.

(c) Nothing in this Agreement contained shall be deemed or construed in any way as constituting the consent or request of the Agency, express or implied by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Project or any part thereof, nor as giving the City any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any lien against the Project or any part thereof.

ARTICLE VII EVENTS OF DEFAULT AND REMEDIES

SECTION 7.1 EVENTS OF DEFAULT. An "event of default" or a "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by the City to pay or cause to be paid when due the payments to be paid under SECTION 4.1(a) hereof or SECTION 4.4 hereof;

(b) Failure by the City to pay when due any payment to be made under this Agreement other than payments under SECTION 4.1(a) and SECTION 4.4 hereof, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the City by the Agency or the Trustee;

(c) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in paragraphs (a) and (b) of this SECTION 7.1, which failure shall continue for a period of ninety (90) days after written notice, specifying such failure and requesting that it be remedied, is given to the City by the Agency or the Trustee, unless the Agency shall agree in writing to an extension of such time

prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Agency will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is remedied; or

(d) The entering of an order or decree appointing a receiver of the Project or any part thereof or of the revenues thereof with consent or acquiescence of the City or the entering of such order or decree without the acquiescence or consent of the City if it shall not be vacated, discharged or stayed within ninety (90) days after entry.

The foregoing provisions of paragraph (c) of this SECTION 7.1 are subject to the following limitations: if by reason of acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the Government of the United States or the State of Rhode Island or any department, agency, political subdivision or official of either of them or any civil or military authority; insurrections; riots; epidemics, landslides; lightning, earthquakes, fires, hurricanes, tornadoes, blizzards, or other storms; floods, washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery; partial or entire failure of utilities; or any cause or event not reasonably within the control of the City, the City is unable in whole or in part to carry out its agreements herein contained, the City shall not be deemed in default during the continuance of such inability. The City agrees, however, to use its best efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements; provided, that the settlement of strikes, lockouts and other disturbances shall be entirely within the discretion of the City, and the City shall not be required to make settlement of strikes, lockouts and other disturbances by acceding to the demand of the opposing party or parties when such course is in the judgment of the City unfavorable to the City.

Notwithstanding anything contained in this SECTION 7.1 to the contrary, a failure by the City to pay when due any payment required to be made under this Agreement or a failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, resulting from a failure by the City Council of the City to appropriate moneys for such purposes, shall not constitute an event of default under this SECTION 7.1 and shall be governed by ARTICLE IX hereof.

SECTION 7.2 REMEDIES. Whenever any event of default referred to in SECTION 7.1 hereof shall have happened and be subsisting, any one or more of the following remedial steps may be taken provided that written notice of the default has been given to the City by the Agency or by the Trustee and the default has not been cured:

(a) The Agency may re-enter and take possession of the Project without terminating this Agreement, and sublease the Project on such reasonable terms and conditions as the Agency shall deem appropriate for the account of the City, holding the City liable for the

difference in the rent and other amounts payable by the sublessee in such subleasing and the Rentals and other amounts payable by the City under this Agreement.

(b) The Agency may terminate this Agreement, exclude the City from possession of the Project and use its best efforts to sell or lease the Project to another party for the account of the City, holding the City liable for all Rentals and other amounts due under this Agreement and not paid by such other party.

(c) To the extent the same may be permitted by law, the Agency may terminate this Agreement, exclude the City from possession of the Project and sell the Project to another party, holding the City liable for all Rentals and other amounts due under this agreement an not paid for by such other party.

(d) The Agency may make any payments due from the City or perform any act on its part and all sums so paid by the Agency and all costs and expenses incurred by the Agency in connection with the performance of any such act shall be paid by the City to the Agency on written demand.

(e) The Agency may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the City under this Agreement.

Any amounts collected pursuant to action taken under this Section shall be applied in accordance with the provisions of the General Bond Resolution. Any such amounts left over after satisfaction of all obligations of the Agency under the General Bond Resolution, any Series Resolution and any Note Resolution and payment of all reasonable expenses of the Agency hereunder and thereunder, shall be paid over to the City.

SECTION 7.3 REINSTATEMENT. Notwithstanding any termination of this Agreement in accordance with the provisions of SECTION 7.2 hereof (unless the Agency shall have sold the Project or shall have entered into an agreement providing for the reletting of the Project for a period of at least one year), and notwithstanding the fact that the maturity of any outstanding Bonds shall have been accelerated by the Trustee under the General Bond Resolution or Series Resolution or the maturity of any Notes shall have been accelerated pursuant to the Note Resolution, if (i) all arrears of interest on any such outstanding Bonds or Notes and interest on overdue installments of principal, premium, if any, and (to the extent permitted by law) interest on such Bonds and Notes, at a rate per annum equal to the highest rate per annum borne by any of the Bonds or Notes, and the principal and premium (if any) on all Bonds and Notes then outstanding which have become due and payable otherwise than by acceleration, and all other sums payable under this Agreement, the General Bond Resolution, the Series Resolution or the Note Resolution, as the case may be, except the principal of and the interest on such Bonds or Notes which by such acceleration shall have become due and payable, shall have been paid, (ii)

all other things shall have been performed in respect of which there was a default, (iii) there shall have been paid the reasonable fees and expenses, including Administrative Expenses, of the Trustee and of the holders of such Bonds and Notes (including reasonable attorneys' fees paid or incurred) and (iv) any acceleration under the General Bond Resolution, the Series Resolution or the Note Resolution is rescinded, then the City's default hereunder shall be waived, such waiver to be evidenced in writing by the Agency and the Trustee.

Upon such payment and waiver, this Agreement shall be fully reinstated, as if it had never been terminated, and the City shall be restored to the use, occupancy and possession of the Project. Provided, however, that if the Agency shall have sold the Project or shall have entered into a firm bilateral agreement providing for the lease of the Project for a period of at least one year, then the right of the City to reinstate this Agreement shall be forever forfeited.

SECTION 7.4 NO REMEDY EXCLUSIVE. No remedy herein conferred upon or reserved to the Agency or Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be herein expressly required.

SECTION 7.5 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived in writing by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE VIII CONVEYANCE OF PROJECT

SECTION 8.1 OPTION TO PURCHASE UPON EXPIRATION OF LEASE TERM. Provided that there shall exist no event of default on the part of the City under this Agreement, when the Lease Term has expired and the Trustee certifies to the Agency that all of the Bonds and Notes including the Bonds and all other obligations incurred and to be incurred by the Agency in connection with the Project and under this Agreement have been paid in full or provision have been made for such payment in accordance with the General Bond Resolution, the Series Resolution or the Note Resolution, then upon such certification the City shall have the option to Purchase the Project upon the payment to the Agency of the purchase price specified in paragraph (a) of SECTION 8.3. The City may exercise such option by giving written notice thereof to the Agency not later than sixty (60) days following the expiration of the Lease Term.

SECTION 8.2 OPTION TO PURCHASE PRIOR TO EXPIRATION OF LEASE.

The City shall have and may exercise, at any time prior to the expiration of the Lease Term if the City shall have cured any and all defaults under this Agreement, the option to purchase the Project upon payment to the Agency of the purchase price set forth in SECTION 8.3 of this Agreement. Except as otherwise provided in SECTION 4.4 of this Agreement, the City may exercise such option by giving written notice thereof to the Agency at least sixty (60) days before the date that the purchase is to be consummated.

SECTION 8.3 PURCHASE PRICE.

(a) The purchase price payable for the Project pursuant to SECTION 8.1 of this Agreement shall be the sum of One Dollar (\$1.00). In the event the City elects to purchase the Project and upon payment of the purchase price, the Agency shall upon request of the City execute and deliver to the City a deed in suitable form conveying title to the Project to the City.

(b) The purchase price payable for the Project pursuant to SECTION 8.2 of this Agreement shall be the amount, if any, which, with all other funds available therefor, will be sufficient to provide for payment in full of all Bonds and Notes in conformity with the General Bond Resolution, the Series Resolution and the Note Resolution and all other obligations incurred by the Agency in connection with the Project and under the General Bond Resolution, the Series Resolution, the Note Resolution and this Agreement, plus the additional sum of one Dollar (\$1.00). Such payment in full of the Bonds and Notes shall include the principal of all the Bonds and Notes, the redemption premium, if any, and all interest accrued and to accrue on the Bonds and Notes to their earliest redemption date or their maturity date, whichever is earlier, and any expenses in connection with such payment in full. The obligation to make payments required by this Paragraph (b) shall be satisfied in the same manner as Bonds or Notes are deemed paid pursuant to the General Bond Resolution, the Series Resolution and the Note Resolution.

Any prepayment of Rentals under this Agreement will be equal to the principal amount of the Bonds or Notes, the redemption premium, if any, and all interest accrued and to accrue on the Bonds and Notes to their redemption date or their maturity date, whichever is earlier, and any expenses in connection with such payment in full.

(c) In the event of a purchase by the City pursuant to 8.3(a) or 8.3(b) above, the City shall pay all amounts due and owing to the Agency, if any, before the Agency shall be obligated to convey title to the Project to the City.

SECTION 8.4 DATE OF SETTLEMENT. The purchase price of the Project under SECTION 8.3 of this Agreement shall be paid on a date of settlement and at a place to be mutually agreed upon by the Agency and the City. Upon payment of the purchase price, the Agency shall contemporaneously convey to the City good and marketable title to the Project by a good and sufficient deed and such other legal instruments required therefor, subject, however, to

Permitted Encumbrances and any encumbrances resulting from actions of the City or consented to by the City. The City shall bear all costs and expenses in connection with the preparation of the documents of conveyance and the delivery thereof and all fees, assessments, taxes and charges payable in connection with the conveyance of title to the Project.

SECTION 8.5 OPTION TO DIRECT SALE. In lieu of exercising the options granted to the City in SECTIONS 8.1 and 8.2, the City may direct the Agency to sell the Project to such person and for such purchase price as the City may advise the Agency by written notice given to the Agency not later than sixty (60) days following the expiration of the Lease Term and not more than ninety (90) or less than sixty (60) days before the date that the sale is to be consummated. In that event, at the settlement upon payment of the purchase price, the Agency shall contemporaneously make conveyance to the person designated in the written notice as provided in SECTION 8.4. The Agency shall first retain from the net proceeds of sale the sum of One Dollar (\$1.00) and it shall thereupon pay the full amount under the Notes and Bonds, as provided in SECTION 8.3(b) and thereafter remit the balance of the net proceeds of sale to the City.

ARTICLE IX TERMINATION OF AGREEMENT

SECTION 9.1 TERMINATION OF AGREEMENT BY AGENCY. If, as a result of a failure of the City Council of the City appropriate moneys for such to purposes, the City is unable to pay when due the payments to be paid under this Agreement or the City is unable to observe and perform any covenant or agreement on its part to be observed or performed under this Agreement, the Agency shall have the right to terminate this Agreement and the City agrees to vacate the Project.

In order to exercise such right to terminate this Agreement, the Agency shall, at least thirty (30) days prior to the exercise of such right, notify the City in writing of the exercise of its rights pursuant to this SECTION 9.1 and the date fixed for such termination.

No such termination shall constitute a waiver or release of any right or claim that the Agency may have against the City.

SECTION 9.2 RIGHT TO LEASE, MORTGAGE OR SELL PROJECT. Upon the exercise of its right to terminate this Agreement pursuant to SECTION 9.1 hereof, the Agency shall exclude the City from possession of the Project and use reasonable efforts to lease the Project to another party or, to the extent permitted by law, sell the Project and the City agrees to vacate the Project.

Any amounts collected pursuant to action taken under this Section shall be applied in accordance with the General Bond Resolution and the Series Resolution, or, if there are no Bonds outstanding, the Note Resolution. Any such amounts left over after satisfaction of all

obligations of the Agency under the General Bond Resolution, the Series Resolution and any Note Resolution and payment of all reasonable expenses of the Agency hereunder and thereunder, shall be paid over to the City.

In the event that the City continues to occupy the Project after an event of non-appropriation or an event of default, the City will be liable for Rentals for any period the City continues to occupy the Project.

The Agency has mortgaged the Project to secure the Bonds and Notes, pursuant to a Mortgage of even date to the Trustee (the "Mortgage"). The City acknowledges that this Agreement and its interest in the Project is subject and subordinate to the Mortgage and all extension and modifications thereof, subject to the condition that, if the City is in compliance with all of its obligations hereunder, its interests hereunder shall not be disturbed by a foreclosure of the Project and the City shall, and be entitled to; attorn to the Agency's successors in title.

SECTION 9.3 REINSTATEMENT. Notwithstanding any action by the Agency in accordance with the provisions of this ARTICLE IX to the contrary (unless the Agency shall have sold the Project or shall have entered into an agreement providing for the lease of the Project for a period of at least one year), and notwithstanding the fact that the maturity of any outstanding Bonds shall have been accelerated by the Trustee under the General Bond Resolution, the Series Resolution or the maturity of any Notes shall have been accelerated pursuant to the Note Resolution, if (i) all arrears of interest on such outstanding Bonds and Notes and interest on overdue installments of principal, premium, if any, and (to the extent permitted by law) interest on such Bonds and Notes, at a rate per annum equal to the highest rate per annum borne by any of the Bonds or Notes, and the principal and premium (if any) on all Bonds and Notes then outstanding which have become due and payable under the Bond Resolution, the Series Resolution or the Note Resolution, as the case may be, except the principal of and the interest on such Bonds or Notes which by such acceleration shall have become due and payable, shall have been paid, (ii) any acceleration under the General Bond Resolution, the Series Resolution or the Note Resolution is rescinded, (iii) the City has agreed to pay or provide for the payment of all sums required to be paid under this Agreement and (iv) the City observes or performs or agrees to observe or perform all covenants or agreements on its part to be observed or performed under this Agreement, then this Agreement shall be fully reinstated, as if it had never been terminated, such reinstatement to be evidenced in writing by the City, the Agency and the Trustee, and the City shall be restored to the use, occupancy and possession of the Project. Provided, however, that if the Agency shall have sold the Project or shall have entered into a firm bilateral agreement providing for the lease of the Project for a period of at least one year, then the right of the City to reinstate this Agreement shall be forever forfeited.

ARTICLE X MISCELLANEOUS

SECTION 10.1 SURRENDER OF POSSESSION. Except as otherwise expressly provided in this Agreement and except in the event of the purchase of the Project, at the expiration or sooner termination of this Agreement, the City agrees to surrender possession of the Project peacefully and promptly to the Agency in as good condition as at the commencement of the Lease Term, loss by fire or other casualty covered by insurance, condemnation and ordinary wear, tear and obsolescence only excepted.

SECTION 10.2 GOVERNING LAW; SUCCESSORS AND ASSIGNS. This Agreement shall be governed by and construed in accordance with the laws of the State and shall inure to the benefit of and shall be binding upon the City, the Agency and their respective successors and assigns.

SECTION 10.3 SEVERABILITY. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 10.4 AMENDMENTS. Notwithstanding any of the other provisions of this Agreement, the Agency and the City reserve the right to modify or amend this Agreement in any manner; PROVIDED, any such modification or amendment be in writing and that no such modification or amendment shall affect or impair in any way the obligation of the City to pay the Rentals at the times and the manner and amounts herein provided or any provisions of this Agreement made or provided for the purpose of assuring payment of such Rentals.

SECTION 10.5 COUNTERPARTS. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 10.6 NOTICES. All notices or other communications provided for in this Agreement shall be in writing and shall be delivered personally to, or sent by certified or registered mail to the respective offices of the Director of Administration of the City, City Hall, Providence, Rhode Island 02903, and to the Authorized Representative of the Agency, c/o Executive Director, 400 Westminster Street, Providence, Rhode Island 02903, or to such representatives as the Agency or the City may from time to time designate in writing.

SECTION 10.7 HEADINGS. The Article and section headings in this Agreement are inserted for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

SECTION 10.8 NON-WAIVER. It is understood and agreed that nothing contained in this Agreement shall be construed as a waiver on the part of the parties, or any of them, of any right not explicitly waived in this Agreement.

SECTION 10.9 DATE FOR IDENTIFICATION PURPOSES. The date of this Lease is for identification purposes. The effective date of this Lease shall be concurrent with the date of first issuance of the Bonds or Notes.

IN WITNESS WHEREOF, the City has caused this instrument to be executed in its name by the Mayor of the City and the City's official seal attached hereto and the Agency has caused this instrument to be signed by its Chairman and Secretary as its duly authorized officers and its corporate seal to be hereunto affixed, all as of the day and year first above written.

THE CITY OF PROVIDENCE

[SEAL]

By _____
Vincent A. Cianci, Jr.
Mayor

PROVIDENCE REDEVELOPMENT
AGENCY

[SEAL]

By _____
John Rao
Chairman

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

I, the undersigned, a Notary Public in and for the State and County, do hereby certify that before me personally appeared VINCENT A. CIANCI, JR. whose name as Mayor of the City of Providence, Rhode Island is signed to the foregoing Lease and Agreement and who is known to me and known by me to be such Mayor, and acknowledged before me on this day under oath, that, being informed of the contents of said Lease and Agreement he, in his capacity as Mayor and with full authority, executed the same as his free act and deed and as the free act and deed of the City of Providence.

Given under my hand and seal of office this day of , 1999.

Notary Public
Printed Name: _____
My Commission Expires: _____

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

I, the undersigned, a Notary Public in and for the State and County, do hereby certify that before me personally appeared JOHN RAO whose name as Chairman of the Providence Redevelopment Agency is signed to the foregoing Lease and Agreement and who is known to me and known by me to be such officer, and acknowledged before me on this day under oath, that, being informed of the contents of said Lease and Agreement he, in his capacity as such officer and with full authority, executed the same as his free act and deed and as the free act and deed of the Providence Redevelopment Agency.

Given under my hand and seal of office this day of , 1999.

Notary Public

Printed Name: _____

My Commission Expires: _____

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IN CITY COUNCIL
JUN 3 1999

READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.


CLERK