

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
OCTOBER 15, 2009**

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<b>TAB</b>	<b>DESCRIPTION</b>	<b>ACTION</b>
<b>1</b>	<b>FY 2009 CARRYOVER FUNDS</b>	Motion to approve
<b>2</b>	<b>BOISE STATE UNIVERSITY</b> Multi-Media & Marketing Rights Agreement with Learfield Sports Marketing	Motion to approve
<b>3</b>	<b>UNIVERSITY OF IDAHO</b> Property Easement – Idaho Power - Cummings Research Center	Motion to approve
<b>4</b>	<b>UNIVERSITY OF IDAHO</b> Property Sublease – CH <sub>2</sub> MHill at Idaho Water Center	Motion to approve
<b>5</b>	<b>UNIVERSITY OF IDAHO</b> Building Conveyance & Ground Lease - Idaho Public Television	Motion to approve
<b>6</b>	<b>ITEM PULLED</b>	
<b>7</b>	<b>LEWIS-CLARK STATE COLLEGE</b> Property Gift from LCSC Foundation	Motion to approve
<b>8</b>	<b>FY 2011 ALTERATIONS &amp; REPAIR PROJECTS BUDGET REQUESTS</b>	Motion to approve
<b>9</b>	<b>FY 2010 PROMISE B SCHOLARSHIP APPROVAL</b>	Motion to approve
<b>10</b>	<b>IDAHO STUDENT AID PROGRAMS – OVERVIEW</b>	Information item
<b>11</b>	<b>COLLEGE OF WESTERN IDAHO</b> FY 2010 Budget Request Supplemental	Motion to approve

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**SUBJECT**

Request to Carry Over FY 2009 Authorized Unspent Funds into FY 2010

**APPLICABLE STATUTES, RULE OR POLICY**

State Board of Education Governing Policies & Procedures, Section V.C.1.b. and V.C.1.d.

**BACKGROUND / DISCUSSION**

The agencies and institutions noted below received legislative carryover spending authority for non-general funds in FY 2010 under appropriation bills for the College and Universities (SB1207) and Health Programs (HB308). The institutions and agencies request approval to carry over authorized but unspent non-general funds from FY 2009, to be expended in FY 2010.

Board Policy V.C.1.b(2) states "Certain special account monies, such as direct federal appropriations, state endowment income and trust accounts, and miscellaneous receipts, are the subject of continuing or perpetual spending authority." Board Policy V.C.1.d states "...the institutions, school and agencies under the governance of the Board must not expend, encumber, or otherwise use monies under their direct control without the specific or general approval by the State Board of Education or the Board of Regents of the University of Idaho..."

The ability to carry over funds from one fiscal year to another is very valuable in managing institution or agency budget planning across fiscal years. Expenditures can be strategically planned instead of attempting to spend all funds by the end of a particular fiscal year. The institutions and agencies have identified the funds available to be carried over and the planned expenditure of these funds. Since carry over revenues are one-time, the expenditures must be limited to one-time items.

**IMPACT**

Approval will authorize an increase in spending authority for FY 2010 so the institutions and agencies can expend the funds. These expenditure plans are included in the FY 2010 institutional operating budgets.

**ATTACHMENTS**

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**STAFF COMMENTS AND RECOMMENDATIONS**

Staff has reviewed the information provided by the institutions, and recommends approval of carryover spending authority, as authorized by legislative appropriation.

**BOARD ACTION**

A motion to approve the requests by Boise State University, Idaho State University, University of Idaho, Lewis-Clark State College, ISU Dental Education Program, and the UI WWAMI Medical Education Program, to carry over authorized but unspent non-general funds in the amounts specified in the agenda materials from FY 2009 to FY 2010.

Moved by\_\_\_\_\_ Seconded by\_\_\_\_\_ Carried Yes\_\_\_\_ No\_\_\_\_



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**BOISE STATE UNIVERSITY**

**General Education**

The source of funds carried over are: General Account - \$0.00; Student Fees \$24,367,142.

All carryover funds will be used for non-recurring expenses as follows:

Encumbered Funds as of 6/30/2009	\$1,444,435
These are purchase orders issued and commitments made as of June 30, although the goods or services were not received as of June 30, 2009.	
Student fees allocated for HERC and Technology Incentive Grants - projects spanning multiple years	771,288
Academic Departments - Instructional support, accreditation costs, and adjunct funding	2,500,000
Academic Reserves	1,500,000
Physical Plant - on-going approved safety, ADA and maintenance projects as of July 2009	1,500,000
Library	220,711
Student Services	780,108
Research start-up and grant matching funds	1,151,481
Institutional Support - primarily infrastructure support	1,875,000
Remodel costs for teaching laboratories, office space and Yanke Research Center	4,000,000
Furniture, Fixtures & Equip for new academic spaces in FY10 and FY11	1,825,600
Information technology infrastructure, software, system upgrades and licensing costs	1,000,000
Property acquisitions and purchase of modular space to meet growth needs	1,798,519
General reserve for emergencies - one-time funds	<u>4,000,000</u>
<b>Total General Education Carryover</b>	<b>\$24,367,142</b>

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**IDAHO STATE UNIVERSITY**

**General Education**

The sources of funds carried over are: General Account \$0; Student Fees \$6,243,770; Endowment \$0; **TOTAL \$6,243,770**. All carryover funds will be used for non-recurring expense as summarized:

Encumbered Funds as of 6/30/09	\$ 404,952
Purchase orders issued and commitments made, but goods or services not received as of 6/30/09.	

Student fees allocated for HERC and Technology Grants	\$ 654,036
Research & Technology grants and projects are made for a two or three year period. Carryover is necessary to complete those grants and projects.	

Other Carryover Funds	
Library Materials	\$ 549,540
ERP Projects	917,454
Faculty Research Projects	297,536
General Institutional Reserve	3,420,252
Total Other Carryover Funds	\$5,184,782

<b>Total General Education Carryover</b>	<b>\$6,243,770</b>
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**Idaho Dental Education Program**

The sources of funds carried over are: General Account \$0; Student Fees \$178,386; **Total \$178,386**. All carryover funds will be used for non-recurring expense as summarized:

Planned expenditures for uncommitted funds are:

Instructional Support/Equipment	\$178,386
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<b>Total IDEP Carryover</b>	<b>\$178,386</b>
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**UNIVERSITY OF IDAHO**

**General Education**

The sources of funds carried over are: General Account \$0; Matriculation Fee \$1,646,800; Miscellaneous Receipts \$11,244,700; and Land Grant Endowments \$32,700.

Fiscal year 2009 carryover funds are \$3.3m less than fiscal year 2008 carryover amounts. This reduction is due to both internal strategic reallocations of one-time funds as well as state-wide general fund holdbacks. The current carryover targets long-range plans, strategic initiatives, strategic plan implementation and other operating obligations typically spanning multiple fiscal years. Maintaining liquidity or operating reserves minimizes disruptions in the delivery of academic programs and student services as internal reorganizations and reallocations are made.

All carryover funds will be used for non-recurring expenses as follows:

Encumbered Funds as of 6/30/09	\$405,000
Purchase orders issued and commitments made, but goods not received as of 6/30/09.	
Student fees allocated for HERC, Tech Incentive, EPSCoR	216,200
Academic Departments/Academic Reserves	5,505,500
Strategic Initiatives	1,177,700
Library	482,700
Research start up and grant matching funds	815,200
University outreach	949,300
Institutional support	523,600
Facilities	1,030,200
Information Technology	212,000
Enrollment initiatives	632,900
Student Services	251,700
Financial Aid/Student Assistance	302,500
General Reserve	419,500
 Total carryover including encumbrances	 \$12,924,000

**UI Special Programs and Health Programs**

WWAMI Medical Education:

The sources of funds carried over are: General Account \$0; Miscellaneous Receipts: \$305,700. These funds will be used to provide start-up funds for two faculty positions and to support an Idaho Physician Workforce Study.

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**LEWIS-CLARK STATE COLLEGE**

**General Education**

The source of funds carried over are: General Account \$0; Student Fees \$1,334,700; Endowment \$0; **TOTAL \$1,334,700.**

All carryover funds will be used for non-recurring expenses.

Encumbered Funds as of 6/30/2009	\$ 148,052
Purchase orders issued and commitments made, goods and services not yet received as of 6/30/2009.	

Other Carryover Funds	\$1,186,648
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<b>Total Carryover</b>	<b>\$1,334,700</b>
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**BOISE STATE UNIVERSITY**

**SUBJECT**

Multi-Media and Marketing Rights for Boise State University Athletics

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures Section V.I.6.b.

**BACKGROUND/DISCUSSION**

The University requests permission to enter into an exclusive sports multi-media and marketing rights agreement with Learfield Sports Marketing that will go into effect with the 2010-11 athletic season. This proposed contract was reached via a public bid process followed by final negotiations with the winning bidder. The proposed contract is for a period of seven years commencing July 1, 2010 with three further one year options, each exercisable at Boise State's option.

This is the first time Boise State has outsourced its multimedia rights in a comprehensive package. Learfield Sports will establish a Boise-based entity known as "Bronco Sports Properties" that will oversee all aspects of the marketing relationship including managing and selling multimedia and sponsorship rights for Boise State Athletics; signage and sponsorships at all venues, including Bronco Stadium and Taco Bell Arena; radio; certain televised programs such as coaches' shows and play-by-play of selected football and men's and women's basketball games; corporate hospitality; print sponsorships; event marketing and official athletic web site advertising. The University will retain approval rights over such marketing.

The proposed contract includes guaranteed cash payments for the multi-media and marketing rights to the University of over \$17.5 million over the seven year term. In addition, the contract provides for over \$4 million in trade consideration (including advertising trade which will be included in the respective broadcasting agreements) which could be applied to, for example, cell phone contracts and office equipment for university use during the seven year agreement. In addition the Athletics Department of the University will save approximately \$700,000 in printing costs during the seven years, as the costs of printing schedules and game day programs will be borne by Learfield. If all three renewal options are exercised, the total cash guarantees will be over \$26 million for the 10-year term with approximately \$6 million in trade consideration and \$1 million savings in printing costs. Included in the cash amount is a \$1 million flat fee payment in 2011 for capital improvements that Boise State would otherwise have to self-fund. This stipend is likely to be used to fund projects including new video and score boards in the Stadium and Taco Bell Arena. In addition to the guaranteed cash payments, Boise State will receive a percent share of revenues generated by Learfield over certain thresholds.

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The financial proposal can be summarized as follows:

1. Financial guarantees:
  - (i) Rights fee guarantee of \$25,175,000 over 10 years, payable from year 1;
  - (ii) Capital stipend of \$1,000,000 payable from year 2; and
  - (iii) Extension bonus of \$500,000 total – payable in 2015 if Boise State extends for a 3 year term or payable in 2017 if Boise State extends the agreement year by year for contract years 8, 9 and 10 respectively.
2. Revenue share of 50 percent in excess of set thresholds – \$3,885,000 in year 1 increasing annually up to \$5,235,000 in year 10.
3. Trade value of \$305,000 in product (being \$150,000 more than the trade value received by Athletics for 2008/09).
4. Media value of \$292,000 (being the media value received by Athletics for 2008/09).

Learfield has been in business since 1975 and manages the multi-media and marketing rights of 50 universities, including the University of Idaho and 5 other WAC schools in addition to the WAC conference itself. Within the Mountain West Conference, Learfield represents half of the schools. Boise State believes that the synergy of collective experience as well as a dedicated sales and marketing force of at least 3 on-campus staff to be provided by Learfield under the contract will expand the marketing and media presence of Boise State Athletics across all sports, not just football and basketball.

**IMPACT**

Boise State University generates approximately \$2 million in cash per year from existing sponsorship and media agreements, \$150,000 in trade, and \$300,000 in media value. With the guaranteed payments, the university will receive at least \$5 million more over the seven year term for sponsorship and media rights than it would under its current agreements and an additional \$1.5 million if each of the three renewal options are exercised.

**ATTACHMENTS**

Attachment 1 – Proposed Contract

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**STAFF COMMENTS AND RECOMMENDATIONS**

This contract will consolidate all of BSU's sports multi-media and marketing rights in an exclusive agreement with Learfield Communications, Inc. The term of the contract is seven years with an option to extend for up to three additional years. The effective date would be July 1, 2010 (Fiscal Year 2011).

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Boise State stands to realize significant revenue from this agreement, including, but not limited to, \$25.2M in royalty guarantees over ten years and a \$1M capital improvement stipend.

Staff recommends approval.

**BOARD ACTION**

A motion to approve the request by Boise State University to enter into the proposed multi media and marketing rights agreement as submitted with Learfield Sports Marketing.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

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**MULTI-MEDIA RIGHTS AGREEMENT**

THIS MULTI-MEDIA RIGHTS AGREEMENT (“Agreement” or “Contract”) is made and entered as of the \_\_\_\_ day of \_\_\_\_\_, 2009, by and between BOISE STATE UNIVERSITY (“University”), and BRONCO SPORTS PROPERTIES, LLC (“Learfield”), a Missouri limited liability company qualified to do business in Idaho and wholly owned by LEARFIELD COMMUNICATIONS, INC.

**BACKGROUND TO AGREEMENT**

A. This Agreement is intended to set forth the rights, duties, responsibilities of University and Learfield with respect to the “Multi-Media Rights” associated with University’s inter-collegiate athletic programs. These Multi-Media Rights are being granted to Learfield pursuant to University’s Request for Proposal Number TS09-054 and University’s February 18, 2009 letter as its Notice of Intent to Award TS09-054 (collectively the “RFP”).

B. For purposes of this Agreement, the Term “Multi-Media Rights” shall mean the exclusive sponsorship and marketing rights, as hereinafter set forth, with exceptions as set forth within, to inventory, including, but not limited to, print, media, sponsorships, existing or new temporary or permanent signage, and other promotional and sponsorship rights for football, men’s and women’s basketball games, softball, wrestling, gymnastics, tennis and other inter-collegiate sports; and, if University is granted such rights from host venue, promotional rights for all games played at neutral venues where University is designated as the home team; radio and satellite play-by-play broadcast rights for football, men’s and women’s basketball games, softball games and any other collegiate sports as may be agreed between the parties and radio

and satellite broadcast rights for coach's shows; and selected television broadcast rights for football and men's and women's basketball; official athletic website sponsorship; at event corporate hospitality; at event impact; and any other sponsor-related or promotional rights to University's inter-collegiate athletic programs that are particularly described in this Agreement or that may be subsequently agreed to between the Parties as well as all the inventory which is available to University's intercollegiate athletic programs for the 2008 - 2009 University fiscal year. For the avoidance of doubt, the rights granted herein relate to varsity intercollegiate teams and do not include club or intramural teams. For the further avoidance of doubt, the rights granted herein are not exclusive with respect to electronic newsletters, it being agreed and understood that University as well may produce or distribute an electronic newsletter, but University agrees that if it produces or distributes an electronic newsletter primarily relating to Athletics, other than the existing magazine entitled "The Blue" which is produced in print and made available electronically in pdf format, it cannot contain any commercial underwriting or commercial sponsorship or advertising of any kind. University agrees that Touch Fall Marketing, the publishers of The Blue magazine shall be solely responsible for soliciting advertising for the magazine and University shall not solicit advertising on Touch Fall Marketing's behalf.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein and the foregoing Background, University and Learfield (individually the "Party" and jointly the "Parties") agree as follows:

**AGREEMENT**

**1.1 Term of Agreement.** This Agreement is effective on the date signed by both Parties and shall continue until June 30, 2017 (“Initial Term”) unless otherwise terminated as provided herein. Each contract year of the Agreement shall commence on July 1 and end on June 30 and such period shall sometimes hereafter be referred to as “Athletic Year.” University shall:

(i) have three (3) options to extend the Initial Term of this Agreement for an additional one (1) year period each option through June 30, 2018, June 30, 2019 and June 30, 2020 respectively (“Extended Period(s)”). If University wishes to extend this Agreement for the Extended Period(s) it shall notify Learfield no later than June 30, 2015 of University’s intent to exercise its option to extend the term of this Agreement for the first Extended Period and no later than June 30, 2016 and 2017 respectively for the next two Extended Periods; or

(ii) in its sole discretion shall choose to extend the Initial Term of this Agreement for an additional three (3) year period (“Extended Period”) at one time in lieu of three (3) separate one (1)-year options. If University wishes to extend this Agreement for the three year Extended Period it shall notify Learfield not later than June 30, 2015 of University’s intent to exercise its option to extend the term of this Agreement for the three year Extended Period.

If the term of this Agreement is extended to include the Extended Period(s), then the terms and conditions of this Agreement during the Extended Period(s) shall remain the same as those during the Initial Term except as otherwise stated in this Agreement. Notwithstanding the fact that each contract year begins on July 1, the University acknowledges and agrees that Learfield’s rights and obligations under this Agreement begin on July 1, 2010 (“Effective Date”), but that Learfield will begin its efforts prior to the Effective Date and will expend substantial amounts of time, effort and resources to fulfill its obligations under this Agreement. The “term”

of this Agreement including the Initial Period and the Extended Period(s) is sometimes hereafter collectively referred to as the “Term”.

**1.2 Mutual Cooperation.** Throughout the Term of the Agreement, it is the Parties’ intention to cooperate to maximize the opportunities to promote the University’s Athletic program and that will foster growth in both the amounts and the potential sources of revenue under this Agreement. To that end, the Parties, including University’s Director of Athletics (and/or his/her designee) will meet, as they mutually agree is necessary, to discuss the rights and inventory granted to Learfield and any unexpected problems arising therefrom to arrive at mutually satisfactory solutions. The General Manager of BRONCO SPORTS PROPERTIES, LLC will be encouraged to attend regularly scheduled University Athletic Department Administrative Staff meetings and will meet no less than once a month with University’s Director of Athletics or his/her designee at times mutually agreeable to the Parties. In addition, University will use reasonable efforts to clearly and concisely define for University’s staff the specific roles and responsibilities which Learfield will undertake with University’s Athletic Department, including, but not limited to, any agreements Learfield enters into with University’s coaches which Learfield and University mutually determine will help to promote the University’s Athletic program and maximize revenue generating opportunities. Learfield will not enter into any agreement with a University coach without prior consultation with and approval from the University’s Director of Athletics and University shall be responsible for coaches’ compensation in its sole discretion. Learfield will keep University informed on a regular basis and/or upon request by University of its sponsorship and marketing plans as well as its current activities. In consideration of fostering a mutually beneficial environment for both parties, Learfield agrees that it shall keep University informed of its negotiations with potential

partners and shall consult with University regarding new potential partners that it wishes to approach and/or rights that it intends to offer.

**1.3 Additional Multi-Media Rights.** Although this Agreement includes specific rights granted to Learfield, it is agreed that from time to time opportunities for additional Multi-Media Rights may arise or be created that might not have been contemplated or specifically mentioned in this Agreement, including, but not limited to, Learfield finding additional ways to leverage the existing inventory or with new inventory (“Additional Rights”). If the nature of the Additional Rights requires the addition of a significant item of inventory that did not already exist in a University athletic venue in any format, being an alteration that affects the appearance of the venue and/or requires material expenditure (“Material Inventory Alteration”), then Learfield will notify University of such new inventory item in order to obtain University’s approval of such new inventory item. The parties will negotiate in good faith to arrive at a financial model for any Material Inventory Alteration that is funded other than from the Capital Stipend and which includes the allocation of costs between the Parties and the resulting inclusion of revenue from the Material Inventory Alteration in the “AGR” as hereafter defined. For the avoidance of doubt, if, for example, a new ribbon board is installed in Bronco Stadium at a cost to either party of \$250,000.00, the cost incurring party shall first recover its cost of the ribbon board from revenue generated from the ribbon board before any revenue from the ribbon board is included in the calculation of AGR.

**2.1 Grant of Exclusive Radio Broadcast Rights.** Throughout the Term, University grants to Learfield, subject to any restrictions and modifications set forth by this Agreement, the exclusive rights to make or cause to be made live radio (including satellite radio, high definition radio, Spanish radio broadcasts and audio podcasts) broadcasts of all exhibition, pre-season,

regular-season and post-season games for football, men's and women's basketball games and softball games and any other inter-collegiate sports as may be agreed with University. All of such broadcast rights shall be exclusive to Learfield and shall also include any game or games selected for broadcasting by any local, regional or national radio network, subject, however to any currently existing rules governing University as a result of its affiliation with the Western Athletic Conference ("WAC"), the Pacific Ten Conference for wrestling ("PAC 10") or any other conference to which University is affiliated during the Term or the National Collegiate Athletic Association ("NCAA") which could limit such exclusivity granted to Learfield hereunder. Rights to post-season conference and national tournaments are exclusive of all other individual and independent networks except those officially designated as origination stations or networks by radio stations considered by University as part of the radio following the opposing team involved in the game being broadcast. University acknowledges that broadcast rights to post-season conference and national tournaments is important to Learfield's revenue, and if such rights are not available to Learfield, then University shall negotiate in good faith with Learfield for a fair and equitable reduction in Learfield's Guaranteed Royalty Fee during the time the rights are unavailable. Notwithstanding the exclusive rights granted to Learfield under this Section 2.1, and subject to University's approval, a University student station may broadcast games, but only on a low power radio station which will not carry any commercial underwriting or commercial sponsorship or advertising of any kind for such varsity intercollegiate game that will materially compete with the rights granted to Learfield hereunder and only if University has first consulted with Learfield in respect of the same.

Learfield shall use its best efforts to provide the widest exposure in the most professional manner relative to all broadcasts and at the very least shall be no less exposure and of no less

quality than historically provided by or on behalf of University during the 2008 – 2009 Athletic Year. Without limitation to the foregoing, Learfield agrees that it shall use commercially reasonable efforts to increase the radio coverage of women's basketball. If at anytime during the Term, Learfield decides to pay for the production, operational and distribution costs of the Bronco radio network (collectively the "Production Costs") which in turn is expected to increase the revenue opportunities from the radio broadcasts, Learfield shall be entitled to deduct the Production Costs it incurs in calculating the AGR, as hereafter defined, provided that it has first consulted with University with respect to its decision to undertake the Production Costs and University has agreed to the Production Cost budget. Provided that the costs and budget are in line with those of any other universities represented by Learfield or its affiliated companies of equal or greater stature than University with no extenuating circumstances that do not apply to University ("Comparable Learfield Schools"), University shall not withhold approval.

**2.2 Radio On-Air Talent.** Learfield will employ, at its own expense, or subcontract with other approved providers, any and all personnel Learfield deems necessary to conduct broadcasts covered by the Agreement. Final selection of all air talent for all games, including, but not limited to pre-game, post-game, coaches' shows and other events to be broadcast must have the approval of University which approval will not be unreasonably withheld. The University shall also have the right to request removal of a particular on-air talent if it, in its reasonable discretion, deems such removal necessary. The parties agree to discuss in good faith the removal of such on-air talent and allocation of costs or expenses related thereto. Notwithstanding the foregoing, University agrees to be responsible for all normal, reasonable and ordinary replacement costs unless adequate cause exists for such removal. Learfield shall be solely responsible for all employment related costs or liabilities.

**2.3 Radio Programming.** At the sole cost and expense of Learfield, Learfield shall produce, originate, broadcast and distribute the following radio programming in a quality at least commensurate to the quality of broadcasts historically provided during the 2008 - 2009 Athletic Year with state-of-the-art equipment and quality:

A. Football and Men's and Women's Basketball Games. Learfield will provide live broadcasts in the State of Idaho with emphasis in Boise, Nampa, Caldwell, Twin Falls, Idaho Falls, Pocatello, McCall and Lewiston of each (i) regular-season and post-season game for University varsity football, which may include the spring football game or any others if applicable, whether the same are played in Boise or elsewhere; and (ii) each regular-season and post-season men's basketball game whether the same are played in Boise or elsewhere and (iii) any exhibition men's basketball games if applicable. Each broadcast shall include pre-game and post-game shows with live or taped, as available, coaches' interviews, in addition to comprehensive description of game action. Learfield will use its best efforts to provide live broadcasts of each regular season and post-season women's basketball games to be no less than University's historical level provided during the 2008 - 2009 Athletic Year of live broadcasts of such games. Learfield shall pay for all costs associated with the operation and production and shall be responsible for obtaining any and all necessary clearances of each broadcast hereunder.

B. Coaches' Radio Shows. Learfield will produce, sell and commercially distribute a weekly coaches' radio show for football and men's basketball and make all shows available to the Bronco Sports Network subject to technical restraints. For the purposes of this Agreement the "Bronco Sports Network" shall be no less that the radio coverage provided to University during the 2008 - 2009 Athletic Year. Learfield will produce and clear a combined total of approximately thirty (30) football and men's basketball weekly coaches' shows each year that



will be not less than sixty (60) minutes in length per show. University will make available and provide the services of the head coaches of each such coaches' show. Further, Learfield is hereby granted the exclusive rights, at its option, to produce coaches' radio shows for other sports. University shall require coaches to be in attendance at each show agreed to under such contracts, provided the time commitments undertaken by each such coach is consistent with the coach's primary coaching responsibilities and each coach's contract with the University. In the event that a coach is not available, University and Learfield, shall agree to a suitable alternative being either coach's participation by telephone or by substitution of an assistant coach. Notwithstanding the forgoing, University shall use best efforts to provide the head coaches live participation in such shows. Any compensation of the coaches in respect of such shows shall be in the sole discretion of the University but in no event shall Learfield be responsible for a coach's compensation. Learfield may sell a specific placement of any or all of the coaches' shows at a location to be determined and University will make the coach available at such location. Such coaches' shows shall be held at the Stueckle Sky Center on campus, unless the parties mutually agree otherwise, Learfield must provide a compelling reason, which may be a financial reason, for the coaches' show to be held at a different location, such as a local restaurant or other campus or off-campus location but shall also ensure that University does not lose revenue by such change of venue, for example through increased transportation costs and/or loss of food and beverage revenue. In such instance, Learfield will make every effort to ensure that such location shall be convenient to Boise State University and its coaches. University reserves the right to refuse a location if the location is inconsistent with the University's goals, mission or image or if the location is too inconvenient.

C. Other radio programming. Learfield shall also provide other radio programming, live or taped as applicable, to be no less than provided to University historically during the 2008 - 2009 Athletic Year and as required in the contract between Peak Broadcasting and University dated July 12, 2008 (“Existing Radio Contract”) a copy of which has been provided to Learfield as part of the RFP.

D. Technical Requirements. Learfield shall satisfy University as to all technical requirements, including, but not limited to, digital quality, which are necessary to adequately broadcast University athletic events and coaches’ shows in a manner no less than provided historically during the 2008 - 2009 Athletic Year and as is reasonable to be expected as equipment and technology develops during the Term.

E. University Promotional Time. Learfield shall provide University with, or shall procure for University, promotional air time in kind and other marketing and promotional commitments during broadcasts of the game of a level no less than provided to University for its own use (rather than its sponsors’ use) historically during the 2008 - 2009 Athletic Year to the greater of the amount it had received historically during the 2008 - 2009 Athletic Year or two (2) thirty (30) second spots for University institutional (rather than Athletics) promotional matters only. Learfield shall also provide University with, or shall procure for University, promotional air time in kind and other marketing and promotional commitments on the flagship station(s) outside of game broadcasts of a level no less than provided to University for its own use (rather than its sponsors’ use) historically during the 2008 - 2009 Athletic Year.

F. Learfield shall record all radio broadcasts and shall provide University with a copy of all broadcasts and programs created hereunder. All rights in and to the broadcasts and programs shall cease at the expiration of this Agreement and shall revert to University.

G. University shall be considered the copyright owner of, and be entitled to receive all copyright royalty fees in any form allowed by law attributable to, the use or broadcast of the sporting events, preview shows, coach's shows and other programming produced by or on behalf of Learfield hereunder and University shall be entitled to all royalties, fees or other income (excluding, however, any sponsorship or advertising income which shall be included in the AGR as hereinafter defined) which may be attributable to the use of said broadcast material and recordings and Learfield will provide any assistance needed by University to implement any use of said material other than by radio transmission.

H. Notice of the University copyright shall be included as part of every event broadcast made pursuant to this Agreement. The notice shall consist of the symbol "©" or the word "copyright" followed by the year that the event is first broadcast and the name "Boise State University" in every broadcast or medium of delivery.

**2.4 Additional Radio Broadcast Rights.** Notwithstanding anything contained in Section 2.1 through 2.3 to the contrary, it is agreed that from time to time forms or methods of additional distribution rights of the aforementioned radio programming may arise or be created that might not have been contemplated, might not have existed as of the date of this Agreement or specifically mentioned in this Agreement, and these rights shall be subsequently included in the rights granted to Learfield based upon the approval of the University, which approval will not be unreasonably withheld, and the Net Revenue from such rights shall be added to the AGR. Without limiting the foregoing, Learfield shall use commercially reasonable efforts to secure satellite and high definition radio transmission at no charge to the University and Learfield shall offer regular audio podcasts at a frequency and level to be agreed with University. All rights in

and to the broadcasts and programs shall cease at the expiration of this Agreement and shall revert to University.

**2.5 Football, Men's Basketball and Women's Basketball Coaches' Television Shows.**

A. Learfield shall have the exclusive rights to broadcast and sell sponsorships in weekly coaches' television shows for football, men's basketball and women's basketball.

B. Learfield will produce and clear a total of no less than twelve (12) football and no less than twelve (12) men's basketball weekly coaches' shows each year that will be not less than thirty (30) minutes in length per show. Compensation of coaches, if any, will be paid by University but Learfield shall be responsible for all other costs relating to production and distribution of the shows. Any compensation of the coaches in respect of such shows shall be in the sole discretion of the University. In no event shall Learfield be responsible for any compensation of coaches. Parties may agree to proceed with coaches' television shows for any other sports outside of those mentioned above and the net revenue (gross revenue less expenses such as production and distribution for the shows, provided such costs and/or budget have been agreed with University and if the costs and budget are in line with other Comparable Learfield Schools, University shall not withhold approval.) in relation to such additional sports shows shall be included in the AGR as hereinafter defined. Learfield may sell a specific placement of the coaches' show. Such coaches' shows shall be held at the Stueckle Sky Center on campus, unless the parties mutually agree otherwise. Learfield must provides a compelling reason, which may be a financial reason, for the coaches' show to be held at a different location, such as a or at a broadcast studio of Learfield's choice which is convenient to University's campus but shall also ensure that University does not lose revenue by such change of venue, for example through

increased transportation costs and/or loss of food and beverage revenue. University shall require coaches to be in attendance at each show agreed to under such contracts, provided the time commitments undertaken by each such coach is consistent with the coach's primary coaching responsibilities and each coach's contractual obligations to the University. Coaches will be encouraged but shall not be required to attend coaches' shows in person if the show is broadcast from outside the Boise, Idaho area. In this regard, it is agreed that a period of time which is sufficient for the production of a thirty-minute weekly coaches' television show will not unduly interfere with a coach's primary responsibilities to University. Notwithstanding the foregoing, Learfield will make every effort to ensure that the location of the coaches' shows shall be convenient to Boise State University and its coaches. University reserves the right to refuse a location if the location is inconsistent with the University's goals, mission or image or if the location is too inconvenient.

C. University Promotional Time. Learfield shall provide University with, or shall procure for University, promotional air time in kind and other marketing and promotional commitments during broadcasts of the game of a level no less than provided to University for its own use (rather than its sponsors' use) historically during the 2008 - 2009 Athletic Year to the greater of the amount it had received historically during the 2008 - 2009 Athletic Year, and as required in the contract between Belo Corporation (KTVB Media Group) and University dated June 30<sup>th</sup>, 2005 ("Existing TV Contract") a copy of which was provided to Learfield as part of the RFP, or two (2) thirty (30) second spots for University institutional (rather than Athletics) promotional matters only. Learfield shall also provide University with, or shall procure for University, promotional air time in kind and other marketing and promotional commitments on

the flagship station(s) outside of game broadcasts of a level no less than provided to University for its own use (rather than its sponsors' use) historically during the 2008 - 2009 Athletic Year.

D. Learfield shall record all television broadcasts and shall provide University with a copy of all broadcasts and programs created hereunder. All rights in and to the television broadcasts and programs shall cease at the expiration of this Agreement and shall revert to University.

E. University shall be considered the copyright owner of, and be entitled to receive all copyright royalty fees in any form allowed by law attributable to, the use or broadcast of the sporting events, preview shows, coach's shows and other programming produced by or on behalf of Learfield hereunder and University shall be entitled to all royalties, fees or other income (excluding, however, any sponsorship or advertising income, which shall be included in the AGR as hereinafter defined) which may be attributable to the use of said broadcast material and recordings and Learfield will provide any assistance needed by University to implement any use of said material other than by television transmission.

F. University shall own the copyright of and in all broadcasts (live or delayed) and recordings of events or shows covered by this Agreement. Notice of the University copyright shall be included as part of every event broadcast made pursuant to this Agreement. The notice shall consist of the symbol "©" or the word "copyright" followed by the year that the event is first broadcast and the name "Boise State University" in every broadcast or medium of delivery.

## **2.6 Third Tier Television Broadcast Rights.**

A. University agrees to license Learfield the exclusive rights to broadcast television play-by-play programming which is not otherwise prohibited by University's affiliation with the WAC, the PAC 10 for wrestling, or any other conference to which University is affiliated during

the Term or the NCAA (“Third Tier Television Rights”). Such Third Tier Television Rights include football, men’s and women’s basketball and any other University inter-collegiate sport, preview shows, a video season ticket podcast, replay shows and video magazine shows. Learfield will be responsible for all costs relating to the production and broadcast of such Third Tier Television Rights and Learfield shall retain all revenue generated from the Third Tier Television Rights and such revenue will be included in the calculation of AGR. Subject to the provisions of Section 4.2 below, these Third Tier Television Broadcasts shall be aired live or with a reasonable tape-delay as agreed with University. The live televising of home football and basketball games shall be at the discretion of the University based on ticket sales and sell-out policies and the University shall have the right, in its sole discretion to request a tape-delay broadcast of any home game accordingly.

B. Notwithstanding anything herein, Learfield agrees that BRONCOVision shall be the exclusive video streaming venue for all University home and away events, unless and until agreed otherwise with University. Learfield or the applicable television broadcaster shall be provided a link to BRONCOVision from its applicable website.

**2.7 Miscellaneous Terms Applicable to Coaches.** Subject to the coaches’ pre-existing contractual sponsorship obligations, University will require its coaches to cooperate with Learfield should Learfield need to obtain an endorsement that is beneficial in promoting the University’s Athletic program and maximizing the income from the rights granted under this Agreement; nevertheless, Learfield acknowledges that coaches shall not be required to endorse a particular product. University will use its best efforts to prevent its coaches from participating, directly or indirectly, in the endorsement of any product or service that competes with the products or services offered by Learfield’s sponsors. Except as set forth herein, and subject to

each coach's contractual obligations to University, University will require its coaches to cooperate with Learfield to accommodate reasonable requests of Learfield for its sponsors (such as special appearances, autographs, and letter-writing). Any coaches' endorsements by Learfield must conform to University, WAC, PAC 10 (wrestling only), or any other conference to which University is affiliated during the Term and NCAA rules and guidelines.

**2.8 Video/DVD Rights.** If Learfield and University mutually agree that a season ending or other highlight audio-visual program (being video, DVD and/or other audio-visual medium as agreed with University) (together defined as "Video Program") is warranted for a particular University team, Learfield shall, at its expense, produce or cause to be produced and sell or cause to be sold, such Video Program at Learfield's cost and Learfield shall retain all of the revenue derived therefrom provided that the Net Revenue (gross revenue in excess of the cost of producing and selling the Video Program provided such costs and/or budget have been agreed with University and if the costs and budget are in line with any other Comparable Learfield Schools, University shall not withhold approval.) shall be considered part of the AGR. University shall approve the content and artwork of any and all Video Programs.

**2.9 Athletic Internet Site and Internet Video Streaming and e-Commerce.**

A. While University will control and produce the University's official athletic website, University hereby licenses Learfield the exclusive rights to all sponsorship revenue generating opportunities which now or in the future may exist on the University's Official Athletics Website ("OAS") (<http://broncosports.com>), including, but not limited to, all rights to sell sponsorships in the form of company logos and messages on University's OAS, audio streaming of sponsorship messages and direct internet access to other websites as well as all other sponsorship opportunities which now or in the future may exist in the future on the OAS. All resulting gross



revenue derived by Learfield from these rights shall be added into the calculation of the AGR. All other rights relating to the OAS, including but not limited to audio and visual streaming, subscription member services, fundraising, auctions, merchandising, ticket and event revenue and editorial content shall be retained by University. University shall be responsible for providing editorial content on the OAS. Notwithstanding anything contained in this Section 2.9 to the contrary, Learfield acknowledges that the University presently has an existing relationship with Jump TV (host of the OAS) and until and unless such relationship is terminated, Learfield shall not have the right to manage, produce or further develop the OAS unless separately agreed with University. However, University will provide Learfield with the opportunity to have input on decisions regarding the OAS but shall not be obligated to implement Learfield's suggestions. Upon termination of University's agreement with Jump TV, Learfield, with input from University, shall have the right to select Jump TV's successor but University shall not be obligated to grant such rights to Learfield. In the event that Learfield is granted the right to manage the OAS and/or the audio or video streaming, Learfield shall negotiate the contract with an appropriate website hosting company and pay the then applicable hosting fee for the OAS ("Hosting Fee"). The Hosting Fee shall not be deducted from the Guaranteed Royalty Fee set forth in Section 4.1 and the resulting revenue shall be treated separately from the AGR hereunder.

B. Learfield shall have the exclusive right to publish and distribute an Official Sports Report ("OSR"), daily e-mails of up-to-date and unique news to University fans and constituents. To assist Learfield in its marketing and distribution efforts of the OSR, subject to the applicable data privacy laws and at Learfield's cost, University agrees to distribute such OSR and other Learfield news to its database or e-mail addresses of season ticket holders, and individual game

ticket purchasers, athletic department donors and boosters. University will use reasonable efforts to have such OSR distributed to the database or email addresses of the University's alumni association. Learfield acknowledges that University does not control the University alumni association's database or email addresses and that Learfield will be responsible for any costs associated with such distribution.

## **2.10 Game Program and Schedule Card Production and Sponsorship Rights.**

2.10.1 Football; Men's and Women's Basketball. Learfield shall have the exclusive right to print, publish, distribute and sell sponsorship space in football, men's and women's basketball programs (or similar game day publications) for all home games and matches played by University and those designated as home games or matches although played or conducted on a neutral site, during its regular seasons and schedule cards for the other sports (collectively the aforementioned programs and roster cards are referred to herein as "Game Publications").

2.10.2 Matters Relating to All Programs. All costs of printing and distributing all athletic game programs will be the responsibility of Learfield. The quality and quantity of the game programs will be not less than what has historically been produced by or on behalf of University on a per-game basis for University based on sales demand and no less than the quantity and quality specified in Attachment B of the RFP. University shall be responsible for providing all written content and editing thereof that is required for each Game Publication and will work with Learfield to determine the design of Game Publications and in some instances will be responsible for design elements of the Game Publications. University retains final control of all content and design of its Game Publications but will not have control over sponsorships in Game Publications which control will belong exclusively to Learfield, provided

that University has agreed to the percentage of space in the respective Game Publication made available to the sponsors in aggregate. University shall be responsible for supplying Learfield or its printer with Game Publication content not less than 30 business days prior to a Game Publication's publication for "static" pages and not less than five (5) business days for "change" pages. Learfield will provide University with a mutually agreeable reasonable number of complimentary Game Publications, to be no less than five hundred (500) copies. University shall have the right to purchase at cost additional copies of Game Publications for its own use from Learfield. Learfield shall charge University no more than its actual printing cost in respect of such additional copies. In addition to the sponsorship revenue from Game Publications, Learfield will retain any game day vending revenue from Game Publication sales which shall be included in the calculation of the AGR. Learfield and University will review and mutually agree upon the sales price, quantity and format of the respective Game Publications for the upcoming season no less than once a year.

**2.11 Sponsorship Signage.**

A. Except as otherwise set forth in this Agreement, University grants Learfield the exclusive rights to sell sponsorships on all the existing as well as all the future permanent signage (electronic or otherwise) and temporary signage in all University athletic venues, including, but not limited to,

- Bronco Stadium
- Taco Bell Arena

B. If, during the Term, University decides to install new electronic or enhance existing electronic signage or install new videoboards or enhance existing videoboards at any of its athletic venues (collectively the "New Signage"), Learfield will have input into the New Signage

in order that Learfield can manage the sponsorships which will result from the New Signage and Learfield will retain all revenue from the New Signage sponsorship sales where such New Signage was paid for out of the Capital Stipend and such revenue shall be included in the calculation of the AGR. If the University decides to install New Signage over and above that which is funded by the Capital Stipend, before so doing it shall agree with Learfield how it shall be funded and how the revenue shall be treated hereunder.

C. The above foregoing notwithstanding, University reserves the rights to utilize signage (electronic or otherwise) for such reasonable amounts of time as agreed upon by Learfield for pre-game, half-time, quarter breaks, game time-outs or post-game for University's need to promote University sports, the University or University events or accomplishments, or athletically-related activities as deemed reasonably necessary by University but in no event for any commercial underwriting or commercial sponsorship or advertising of any kind, other than for the University Bookstore and for hotel and automobile lease/transport trade partners as agreed with Learfield, and subject to the provisions of Section 6.1 of this Agreement, in any event to be no more than historically provided to University Bookstore and such hotel and automobile lease/transport trade partners during the 2008 - 2009 Athletic Year.

2.11.1 Athletic Venue Sponsorship Rights. The specific athletic venue sponsorship rights will include, but not be limited to, the following signage:

**Bronco Stadium ("Stadium"):**

- Main scoreboard permanent panels
- Main scoreboard tri-vision panels
- Fascia signage
- Field level signage and banners

- Façade, Tunnel and Concourse Signage
- On-field logo, with University's approval and provided that this does not adversely affect the turf
- Message Center Displays
- Promotions that involve sponsors at all events, provided that the University has agreed to such promotions
- Press conference backdrops
- Coaches' headsets
- Football goal post pads
- Exterior marquee and signage
- Video board features, promotions, replay swipes, PSAs and billboards
- Digital signage (when available in the future)
- Sound system cover
- Concession signs
- Cold air balloon signage
- Temporary signage
- Television monitors (Bronco Vision)
- Field Goal Nets (if such nets can be installed without detriment to spectators view and without damage to the track and field facilities)
- Virtual signage during telecast (subject to any rights retained by the WAC/ESPN)
- Sideline Cooling Systems
- Sideline Equipment Crates

- Sideline employees (e.g., chain crew, managers, etc.) clothing and equipment, as permitted (i) by the University's agreement with Nike or the applicable apparel contract at that time and (ii) the applicable Conference rules.
- Cup Holders, if available
- Other opportunities as approved by University

**Taco Bell Arena Signage:**

- Rights to the center hung scoreboard signage
- Rights to the University's main scoreboard and panels and auxiliary boards
- Rights to the University's LED displays, if available in the future
- Scoreboard, fascia and vomitory displays
- Scorers' table, press row and baseline table advertising panels (rotational, digital, or static)
- University and opposing team bench chair backs and kick plates
- Message center displays
- Video advertising displays
- Basketball goal posts padding
- Basketball backboard supports (goal profile)
- Team entry canopies/signage
- Playing surface logo opportunities, as approved by the University
- Shot clock advertising panels
- Suite Signage
- Virtual signage during telecast
- Courtside, rotational and permanent signage

- End wall permanent and rotational signage
- Upper corner sponsor panels
- Mezzanine permanent and rotational signage
- Exterior marquee and signage
- Temporary signage and displays
- Static signage opportunities that either currently exist or which Learfield may elect to sell in and around concession areas, facility entries/exits, restrooms, concourses, portal entries/exits into seating areas
- Concession, concourse and lobby displays
- Plastic souvenir cups and concession (food) containers subject to University's existing arrangements with its pouring rights partner and/or concession provider
- Courtside employees, not to include scorer's table personnel (e.g., ball boys, managers, etc.) clothing and equipment as permitted (i) by the University's agreement with Nike or the applicable apparel contract at that time and (ii) the applicable Conference rules.
- Scoreboard signage in the practice area
- Blimp signage
- Profile Signage (on top of basket supports)
- Other opportunities as approved by University

All Taco Bell Arena signage sponsorship must be subject to the existing agreement between the University and Taco Bell primarily that sponsorship shall not be sold to a competitor of Taco Bell. Furthermore, such sponsorship shall be in respect of athletic events only and sponsors shall acknowledge that their respective signage may be covered

or obscured at a non-Athletic event and/or at an athletic event that is not controlled by University such as a NCAA tournament. Learfield acknowledges that University has a separate arrangement with Taco Bell Arena and therefore agrees to consult with University with regard to all Taco Bell Arena signage and inventory and rights granted therein. Notwithstanding the foregoing sentence, the Taco Bell Arena Signage referred to above, shall be available to Learfield in accordance with the terms of this Agreement.

**Other Sports Venues:**

- Main scoreboard ad panels
- Any sideline and end-line advertising panels
- Message center displays
- Video advertising displays
- Public address announcements
- University and opposing team dugout and bench signage
- Temporary or permanent playing surface logo opportunities
- Static signage opportunities that either currently exist or which Learfield may elect to sell in and around concession areas, facility entries/exits, restrooms, concourses, portal entries/exits into seating areas
- Temporary signage and displays for special events
- Plastic souvenir cups and concession (food) containers subject to University's existing arrangements with its pouring rights partner and/or concession provider
- Other opportunities as reasonably approved by University
- Press Backdrop



Any signage other than the aforementioned signage shall be subject to consultation with University and further subject to the provisions of Section 1.3 above in respect of Additional Rights and/or Material Inventory Alteration.

For the avoidance of doubt, marketing, merchandising, sponsorship, signage, media and commercial rights for events on or within University's facilities that are hosted by other third party organizations or organizations within University that are not related to the Athletic Department, are excluded from this Agreement. Learfield may not enter into contracts with sponsors that prevent University, its Alumni or the University Foundation, from contracting with competitive sponsors for non-University Athletics events, regardless of where the events are held. Furthermore, where University shares facilities with a third party, for example the softball field, the rights granted herein shall only apply Athletic Department events.

2.11.2 Existing Message Board, Videoboard Rights, and Public Address Announcements. University grants Learfield the exclusive rights to secure sponsors for announcements, messages and videoboard displays on existing public address, electronic ribbon boards, scoreboards or videoboards including, but not limited to, out of town scores, trivia, statistics, features, segments, replays, commercial logo branded messages and contests. University will provide Learfield and its sponsors the necessary reasonable production and execution support needed for such announcements and messages at no cost to Learfield. The amount of necessary production and execution support provided will be reasonable and commensurate to that amount provided by University for University sponsors in the past. Any production and execution support over and above these reasonable amounts will be billed to Learfield by University at prevailing rates.

**2.11.3 Maintenance of Sponsorship Signage, Message Boards and Videoboards.**

Learfield shall be responsible for all costs and expenses relative to any copy or art changes for replacement of existing signage. University will be responsible for the maintenance of both the existing and any new permanent signage and equipment, including the videoboards, rotating signage and static signage. University will also be responsible for payment of the game-day video board production charges. University will use all reasonable efforts to ensure that all such signage will be repaired in a timely manner in order to make such signage fully functional and operational.

**2.11.5 New Inventory Items.** It is understood and acknowledged that from time to time University may wish to install new items or upgrade existing items which are capable of adding to the inventory available under this Agreement or enhancing the existing inventory (“New Inventory Items”). All of the New Inventory shall be marketed and sold exclusively by Learfield and the Net Revenue received by Learfield from any New Inventory Items shall be included in the calculation of the AGR each year, provided that such costs have been mutually agreed with University. Notwithstanding the foregoing, if any New Inventory Items are paid for by the University from funds other than the Capital Stipend, University and Learfield shall first agree how such New Inventory Items are to be funded and whether any of the increased revenue is to be paid directly to University to compensate for the expenditure over and above the Capital Stipend.

**2.11.6 Temporary Signage.** University, at no additional cost or expense, agrees to help facilitate Learfield obtaining the exclusive rights to sell or create temporary signage opportunities at University games or events which occur at a neutral venue. Any such temporary signage shall be paid for, erected, maintained and operated at the sole cost and expense of

Learfield. All of the revenue received by Learfield from any temporary signage shall be included in the calculation of the AGR each year.

**2.12 Promotional Items and Events.** Throughout the Term, University grants Learfield the exclusive rights to the following promotional items and events:

2.12.1 Printed Promotional Item Rights. Learfield will have the exclusive right to sell sponsorships on all University printed promotional items relating to Athletics including, but not limited to, team rosters, ticket backs, parking passes, roster cards, ticket applications and mailer inserts, ticket envelopes, posters, sports calendars, fan guides, trading cards and schedule cards ("Printed Materials"). University and Learfield will mutually agree on an annual basis upon the sponsors, content and amounts of Printed Materials. However, the quantity (numbers produced) and quality will be no less than was being produced by or for University historically unless and until such Printed Materials can be replicated in all or in part electronically e.g. electronic ticketing and such advertising space is no longer available. University will be responsible for the design of Printed Materials. Learfield shall provide the sponsors logos and materials together with the necessary rights for University to reproduce such logos and materials in a format and timeframe as reasonably requested by University as needed to produce the Printed Materials in a timely manner. The cost of printing the Printed Materials will be at a level consistent with the historical cost and will be the responsibility of Learfield and shall not be deducted from the AGR.

2.12.2 Game Sponsorship and Promotional Sponsorship Rights. Learfield will have, at a minimum, the right to secure sponsors for pre-game, game "time-outs", half-time, and quarter breaks sponsored promotional activities and special game day on-field and on-court promotions or contests as well as official game sponsorships. University reserves the right to

use, at no cost and expense to Learfield, a reasonable amount of time to be agreed upon by Learfield during any pre-game, game “time-outs”, half-time, and quarter breaks for University’s need to promote University’s fundraising efforts, development projects, sports, upcoming University events or accomplishments, subject to Section 6.1 of this Agreement, the University Bookstore and such hotel and automobile lease/transport trade partners or athletically related activities. Promotional activities may include, but are not limited to, premium item giveaways, fan contests on the field, floor, or in the stands, sponsored entertainment acts, product samplings, inflatables, games, temporary signage, couponing and free product distribution and product displays; provided, however, this is not intended to exclude approved University student organizations’ fundraising activities and other similar on-field/on-court recognition which do not have any commercial endorsement which in all events is strictly prohibited. By the first day of December of each year, Learfield will coordinate and discuss with University an annual game/event promotions sales plan for the following athletic year. University will provide Learfield with all reasonable assistance in the sponsorship, promotions and implementation/facilitation as needed during these game-related activities. At University’s reasonable request, Learfield will respect the University’s environmental sustainability efforts and other applicable mission goals and/or policies when entering into promotional activities.

**2.12.3 Game Day Hospitality Rights.**

A. Learfield shall have the exclusive rights to all corporate hospitality tents and group ticket sales related to corporate hospitality tents (“Hospitality Rights”). The Net Revenue, if any, derived from Hospitality Rights shall be included in the calculation of the AGR. Learfield shall be responsible for payment of costs associated with Hospitality Rights, subject to sub-section B below.

B. Hospitality Tent. University shall provide to Learfield, at no cost to Learfield, space for hospitality tents or any alternative facility for its clients at all University home football games as well as all football games played at a neutral site if University is designated as the home team and as the home team retains such rights. In all instances, University shall approve the location of the Hospitality Tent or alternative facility. The current hospitality area is the Keith & Catherine Stein Plaza by the Caven-Williams Sports Complex.

C. Learfield acknowledges and agrees that the activities of the University Alumni Association are excluded from this Agreement. The Alumni Association may host corporate hospitality and/or tailgate events which may be sponsored provided that these are held off-campus. The Alumni Association is currently located on University Drive but not on University owned land.

2.12.4 Fan Festival Rights. In addition to those rights described in Section 2.12.2, Learfield shall have the exclusive right to sell sponsorships, sponsorship packages (including tickets, meal and beverage vouchers) and corporate involvement for any existing interactive fan festival or related activities, that it creates with the approval of the University, such approval not to be withheld unreasonably, as well as those that University creates in the future with Learfield's approval, not to be withheld unreasonably. The Net Revenue from such events shall be included in the calculation of the AGR. The following are examples of at-event impact sponsorship inventory which will be available throughout the Term exclusively to Learfield but such examples are not intended to be the only available inventory:

- Product displays
- Sampling, couponing and free product distribution to fans attending University events
- Title and/or rivalry sponsorships of University Athletic events

- Presenting sponsorships of University Athletic events
- Pre-game post-game, half-time and timeout in-arena/stadium, on-court/field promotions, contests, mascot appearances, corporate recognition/presentations, and/or giveaways
- Plastic souvenir cups and concession (food) containers, subject to University's existing arrangements with its pouring rights partner and/or concession provider.
- Mascot/Cheerleader appearances
- Inflatables/games
- Kid's Club sponsorships (subject to the existing arrangements between University Athletics Department and University Bookstore)
- Varsity team tournaments and special events
- Ancillary entertainment opportunities such as half-time shows, etc.
- Midnight Madness-type events

2.12.5 For the avoidance of doubt, nothing herein shall prevent University from offering such events, without sponsorship, and on consultation with Learfield if such event involves a third party company for example a licensed merchandise retailer, and any revenue shall not be included in the calculation of the AGR. Licensing Opportunities & Retail Promotions. Commensurate with historical broadcast and sponsorship agreements, and subject to existing licensing agreements, University grants Learfield the right to use University's name, trademarks, service marks, logos or symbols as identified at **Schedule 2.12.5** on a royalty free basis to Learfield and its sponsors with regard to any promotions, sponsorships, commercial endorsements, or any other marketing activities covered in this Agreement; provided, however, that (i) University has approval, not to be unreasonably withheld or delayed, of all artwork produced by Learfield and/or sponsors, media partners and other third parties with whom

Learfield contracts in accordance with this agreement, that bear the University's name, team name and/or other trademarks including University's logos, the blue field and other indicia that identify the University such as the college colors of blue and orange and the mascot and (ii) Learfield agrees that the sale or distribution of University logo bearing merchandise by Learfield or a sponsor is prohibited unless such merchandise is acquired through a supplier licensed by the University or the University Bookstore, and all such merchandise or designs shall have first been approved by the Director of Trademark Licensing, such consent not to be withheld unreasonably. For the avoidance of doubt, no party is permitted to sell product or services on University campus except through the University Bookstore without University approval. If a sponsor wishes to distribute a product or service on University campus, whether as a giveaway or for a fee, Learfield shall first consult with University and University shall have right of approval over such distribution, not to be unreasonably withheld. Learfield shall have the right to offer to sponsors the ability to enter into retail promotions, which make use of a University logo, such as using the University logo in point of sale materials ("Specific Sponsorships"). Learfield shall have the right to sell Specific Sponsorships throughout the Term of this Agreement and shall consult with University in respect of the same. The style and presentation of the Specific Sponsorship shall be submitted in writing or via email to the Director of Trademark Licensing for approval. If Learfield does not receive an approval or non-approval within seven (7) business days of its submission, the style and presentation of the Specific Sponsorship will be deemed approved by the University.

Learfield and those Learfield sponsors of University will have the right to use tickets in their retail promotions and all their projects which are related to Learfield's rights under this Agreement. Subject to the Exclusions and Excluded Sponsorships referred to in sections 3.9 and

3.10 respectively, the Parties agree not to allow the use of athletic event tickets for promotional purposes that specifically compete with Learfield's sponsorship sales efforts ("Restriction") by all other parties without the approval of University and Learfield, not to be unreasonably withheld. To the extent possible, University agrees to place an appropriate notice on all athletic event tickets in order to give effect to the Restriction.

**2.13 Rivalry Series.** The Parties will cooperate in the development of additional promotional marketing opportunities, including, but not limited to, the right to market and/or create one or more corporate-sponsored rivalry series for all athletic events. Specific details of any new rivalry series events will require the approval of the University in its sole discretion.. Any rivalry series which is created by Learfield as well as all neutral site games whose rights belong to University and not the other team shall be Learfield's rights on an exclusive basis, including sponsorships, game sponsorships, print rights and all other promotional items. Notwithstanding the foregoing, and subject only to reciprocal rights granted to the rival school, University shall retain all rights in and to, including merchandise rights, the Rivalry Series which shall continue beyond the Term. As part of any future agreement for a neutral site game whose rights belong to University, University will not permit the solicitation of any University/Learfield client in a major sponsorship category (including, but not necessarily limited to, telephone, insurance, banking, and automobile), and will not permit the solicitation of any competitor of Learfield client in a major sponsorship category, for a title sponsorship and secondary or "presenting" sponsorship.

**2.14 Relocation of a University Home Game.** If during the Term, one of the University's home football games is moved to a neutral location or to the visiting team's location ("Displaced Game"), a fair and equitable reduction in the Guaranteed Royalty Fee and a



corresponding adjustment to the Revenue Share Hurdle amounts shall be negotiated in good faith by the parties in recognition of the sponsorship revenue affected which results from a Displaced Game; provided, however, if the Displaced Game is replaced in the same season with another home game involving another team in the University's conference or a team which is comparable in stature, national prominence of its program or national ranking to the team which is involved in the Displaced Game or a team which is a traditional rival of University, then there shall not be any reduction in the Guaranteed Royalty Fee or any increase in the Revenue Share Hurdle Amount.

**3.1 Tickets and Parking Passes.** Throughout the Term, University shall provide Learfield, at no cost to it, the number of tickets and parking passes specified in **Schedule 3.1**, which shall be no less than the same historical number of season and individual tickets in the same or better historical locations to football, men's and women's basketball games and other University intercollegiate games which were provided or allocated to sponsors, as well as TV and radio broadcast providers and rights holders, for the 2008 - 2009 Athletic Year. Said tickets and parking passes shall be of the same or better quality as to locations previously provided by University. In addition, Learfield shall have the right to purchase additional tickets from University, if available, the quality of which will be based upon availability and the tickets afforded the highest level of donor status by University ("Additional Tickets"). The price for the Additional Tickets shall be the lowest available price charged by University for the same quality of ticket together with the associated Bronco Athletic Association fees and any other dues required for third party purchase of the applicable tickets. Learfield shall have the right to purchase additional parking passes from University, if available, at the lowest available price charged by University. .

During each year of the Agreement, University will provide Learfield the right to purchase up to 200 bowl game tickets; 24 men's and women's WAC Conference Basketball all session tournament tickets; 30 men's and women's basketball NCAA first- and second-round tickets; 30 NCAA men's and women's regional tickets; and 50 Men's and Women's Final Four tickets, provided that University is participating in the applicable game. The quality of the tickets allocated to Learfield will be proportional to the quality of the total tickets made available to University. If, for example, one-third of University's tickets are in the lower level of the WAC Tournament, one-third of Learfield's allocation of tickets will be in the lower level, as well. University will provide parking passes at cost to Learfield on an "as available" basis. In addition, University will provide at no cost to Learfield, four (4) VIP parking passes to all University athletic events (football passes are for reserved spots) and two VIP reserved spots through the University's Club seat program for football. Notwithstanding the foregoing, University shall be able to give away tickets in return for operational services provided to University and other trade provided that such activity does not impinge upon the sponsor rights granted to Learfield hereunder.

**3.2 No Existing Agreements.** University represents and warrants that it has not executed any advertising or sponsorship agreements, which extend past the 2009 - 2010 Athletic Year. If there are any advertising or sponsorship agreements which extend beyond the 2009 – 2010 Athletic Year, including the St. Luke's-Idaho Elks Agreement, such agreements and the revenue therefrom shall belong to Learfield, excluding the Boise Office Equipment Agreement which University will not renew or extend and will receive the revenue therefrom through June 30, 2011. Except for the Boise Office Equipment agreement through the 2010 – 2011 Athletic Year only, any revenue that University receives from an advertising or sponsorship agreement

which extends past the 2009-2010 Athletic Year shall be paid to Learfield by University, failing which, the amount of such revenue shall be deducted from the Guaranteed Royalty Fee.

**3.3 Credentials; Parking and Travel:**

University will also provide all-access credentials and parking on all game days for Learfield's staff members and, from time to time, members of its senior staff.

A. To the extent that there are seats and sufficient capacity, and subject to University's head coach's approval, University will pay for the travel expenses for Learfield's radio crew (consisting of 3 persons) on the team's charter to such away football games in which University's teams appear but Learfield will be responsible for the broadcasting crew's hotel, per diem, and if applicable, commercial airline or vehicular travel, expenses. Learfield shall use best efforts to ensure that such radio crew comply with University's policies and guidelines with respect to their attendance on such charter and University reserves the right to prohibit such radio crew from such charter flights if the radio crew does not follow the University's policies and guidelines. If available, University will further provide Learfield with space on any chartered aircraft carrying University's football team for up to four (4) persons and a Learfield staff member for Learfield's client development, provided that all such persons shall comply with University's policies and guidelines with respect to their attendance on such charter. University shall charge Learfield for such seats at cost.

B. Notwithstanding anything hereunder, all seats on any charter flights shall be subject to University's approval and subject to University's operational needs and also the respective coach's approval.

C. Learfield shall be responsible for all costs in association with the broadcasting crew including hotel, per diem, commercial airline or vehicular travel, expenses for all other games.

**3.4 Office Space.** University acknowledges and agrees that Learfield's performance under this Agreement and the resulting benefits to University will be better enhanced if Learfield is provided office space on the campus of University, preferably near or within University's Athletic Department. University will provide appropriate office space and the use of existing office furniture in a University athletic facility to Learfield during the Term of the Agreement ("Leased Premises") at no additional cost to Learfield. Any changes or enhancements relative to the Leased Premises and furniture therein shall be at the sole cost and expense of Learfield, and shall be at the prior written consent of University. The Leased Premises shall be of a size and quality to accommodate four (4) full-time Learfield employees and one intern. Learfield may hire additional personnel in consultation with University. University will establish telephone and internet access to Learfield in the Leased Premises at no cost to Learfield; however, Learfield will be responsible for reimbursing all related charges other than the set up fees including but not limited to the monthly charges and long distance toll charges. In addition, Learfield will be responsible for paying for out-of-pocket expenses such as office supplies. University will pay for all utilities relating to the Leased Premises. If Learfield needs to expand its staff to carry out its responsibilities under this Agreement, subject to availability, University shall use its best effort to provide Learfield additional office space,

rent-free, to accommodate such need in reasonable proximity to Learfield's Leased Premises, or in different space large enough to accommodate all of Learfield's needs. Learfield shall comply with all labor laws and regulations as specified further in section 8.20 below.

**3.5 Efficient operation.** Except as otherwise provided in this Agreement, Learfield will furnish all labor, management, supplies, and equipment necessary to fulfill its obligations herein; provided, however University will provide non-financial assistance for sponsorship fulfillment and execution at no expense to Learfield (such as the implementation of an on-field or on-court contest during pre-game, halftime or a time-out, provided that such assistance required is reasonable and within University's staffing capacity). Learfield shall provide the necessary number of staff personnel as are reasonably required for Learfield to perform its obligations under this Agreement. It is anticipated that Learfield will require four (4) staff personnel including a General Manager with at least 7 years of applicable experience. University shall have the right to approve the General Manager, which approval will not be unreasonably withheld so long as the General Manager has sufficient prior experience to carry out his duties and responsibilities and shall be consulted in respect of all staff to be hired by Learfield to work for Bronco Sports Properties.

**3.6 Permits.** Learfield will be financially responsible for obtaining all required permits, licenses, and bonds to comply with pertinent University rules and policies and municipal, county, state and federal laws, and will assume liability for all applicable taxes including but not restricted to sales, income and property taxes.

**3.7 Successful Performance.** Recognizing that successful performance of this Agreement is dependent on mutual cooperation between the Parties, Learfield will meet periodically with University to review Learfield's operations pursuant this Agreement and make

necessary adjustments. Learfield will at all times recognize that University is a State university and Athletics is only part of the institution and therefore, Learfield will take this fact into account as part of its mutual cooperation with University.

**3.8 Blogs.** University acknowledges and agrees that it is the exclusive right of Learfield to provide ongoing, regular and real time coverage of University athletic events which not only includes the game itself but also includes pre-game, half-time, quarter breaks and post-game broadcasts (“Game Coverage”). University further acknowledges that the right to provide any type of commercial sponsorship or promotion in such “game coverage” on a blog or other similar means which features, describes, includes or discusses any University team in action as it occurs or “Game Coverage” (including any pre-games, half-time, quarter breaks or post-game) is an exclusive right belonging solely to Learfield (“Blog Sponsorship”). This Blog shall be made available on University’s OAS and nothing herein shall prevent University from writing its own blog(s) provided that no University written blog relating primarily to Athletics may contain any type of commercial underwriting or commercial sponsorship or advertising of any kind. If either University or Learfield become aware of any third party blog which includes blog or blog-type Game Coverage or Blog Sponsorship or a blog which violates the Conference Policy (collectively a “Violating Blog”), University will act reasonably to attempt to arrive at a satisfactory solution to eliminate the Violating Blog. Notwithstanding the foregoing, failure by University to eliminate a Violating Blog shall not be considered a material breach of this Agreement.

**3.9 Exclusions.** Learfield acknowledges that none of the revenue associated with the agreements as referenced in Schedule 3.9 to this Agreement (“Excluded Agreements”) shall belong to Learfield; provided, however, Learfield shall have the right to pursue and sell to those

Excluded Agreement parties additional sponsorship opportunities not specifically covered by the terms of the Excluded Agreements.

**3.10 Excluded Sponsorships.** Notwithstanding anything contained in this Agreement to the contrary, Learfield agrees that it shall not sell the following categories of sponsorship or sell any advertising right to any company that engages in the following businesses throughout the Term of this Agreement, unless otherwise agreed to by University, which approval may be withheld in University's sole discretion for no reason:

- Gambling (except the State authorized lottery). Establishments which provide gambling but also have other recognized sources of income such as a spa and resort are permissible sponsors so long as the sponsorship makes no reference to the gambling aspects of the establishment.
- All Liquor (except that television broadcasts may include paid for advertising, but not sponsorship, from malt beverage or wine companies)
- Prophylactics
- Feminine hygiene products
- Tobacco products
- Sexually explicit materials.
- Adult entertainment
- Religious and/or political materials
- Ammunition and firearms
- Competitors of University which for purposes of this Agreement shall be limited only to other higher education institutions or competitors of the University Bookstore/Bronco Shop being including but not limited to bookstores and fan

stores such as the Blue & Orange Store.

- Material that could be considered defamatory, obscene, profane, vulgar or otherwise socially unacceptable or offensive to the general public or may cause harm to student-athlete health, safety and welfare
- Advertising that may bring discredit to the purposes, values, principles or mission of the NCAA or University or may negatively impact the interests of intercollegiate athletics or higher education.

Learfield agrees that in exercise of its rights granted hereunder, it shall ensure that any advertising, sponsorship or other representation of the University shall be mindful of and consistent with the good image, message and reputation of the University. Furthermore Learfield shall use reasonable efforts to ensure that all sponsors, advertisers, media partners and other parties with whom Learfield enters into arrangements with in accordance with the terms of this agreement, shall be mindful of and consistent with the good image, message and reputation of the University and that promotion or recognition of such third party will not materially distort or impair the presentation and image of the University, its Athletics program and the respective teams.

**4.1 Guaranteed Royalty Fee.** As payment for the rights licensed under this Agreement, Learfield will pay University a Guaranteed Royalty Fee in such amounts as set forth below. The Guaranteed Royalty Fee described below is based upon all of the following assumptions being completely accurate (collectively the “Assumptions”): (a) that at a minimum, the inventory available to Learfield for sponsorship sales shall be not less than the inventory which was available for sponsorship sales for the 2008 - 2009 Athletic Year and will include all the signage inventory available in the Taco Bell Arena including the signage sold to Cactus Pete,



Jiffy Lube, Chevron and the Boise Airport (“Base Sponsorship Inventory”); (b) all of the exclusive rights described under this Agreement are available to Learfield throughout the Term; (c) all of the historical sales information provided by University to Learfield is accurate and the amounts set forth in the agreements between the University and its sponsors and advertisers are collected in full by University; and (d) except for the Excluded Agreements (but not the Boise Office Equipment Agreement), there are no advertising or sponsorship agreements which extend past the 2009 – 2010 Athletic Year. If any or all of the Assumptions do not occur, are not accurate or do not remain in effect for the entire Term of the Agreement, then University shall negotiate in good faith with Learfield for a fair and equitable reduction in Learfield’s Guaranteed Royalty Fee, save that in the event that the Assumptions in sub-paragraph (a) or (c) above are not accurate the Guaranteed Royalty Fee will be adjusted downward on a dollar-for-dollar basis accordingly. If the Base Sponsorship Inventory or elements are materially reduced or eliminated, University will either replace inventory or alleviate those issues specifically identified by Learfield in writing associated with such inventory to Learfield’s reasonable satisfaction failing which the Guaranteed Royalty Fee will be adjusted downward on a dollar for dollar basis. All Guaranteed Royalty Fees owed by Learfield shall be paid one-half on December 31 and one-half on June 30 of each Athletic Year with a final distribution of any income derived through the agreed AGR formula or other adjustments made on or before August 31<sup>st</sup> of the following Athletic Year.

<u>Athletic Year</u>	<u>Guaranteed Royalty Fee</u>
2010 – 2011	\$2,135,000*
2011 – 2012	\$2,260,000

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\* This amount reflects a \$50,000 reduction to accommodate the University’s retention of that amount from the last year of the University’s contract with Boise Office Equipment.

2012 – 2013	\$2,335,000
2013 – 2014	\$2,410,000
2014 – 2015	\$2,485,000
2015 – 2016	\$2,560,000
2016 – 2017	\$2,635,000

If the University exercises its option for each Extended Period, the Guaranteed Royalty Fee for each Extended Period shall be as follows:

2017 – 2018	\$2,710,000
2018 – 2019	\$2,785,000
2019 – 2020	\$2,860,000

**4.2 Reduction to Guaranteed Royalty Fee.** Notwithstanding anything contained in this Agreement to the contrary, a fair and equitable reduction in the Guaranteed Royalty Fee Payment will be agreed upon by Learfield and University if any one or all of the following events occur and thereby reduce Learfield's revenue during the Term of this Agreement, which reduction will be negotiated in good faith by the Parties unless another manner of reduction is otherwise provided in this Agreement:

A. University's football, men's or women's basketball team incurs sanctions which prevent the team from appearing in conference championship games or post season conference tournaments, NCAA, or NIT tournaments (basketball) or playoff/bowl games (football):

B. The men's football, men's basketball or women's basketball program is eliminated or substantially curtailed; or

C. Should any acts of terrorism, acts of state or the United States, strikes, labor shortages, epidemics or any natural disaster, including, but not limited to, flood, fire, earthquake,

tornado, hurricane or extremely severe weather condition, drought, loss of power, whether or not resulting from a natural disaster, prevent a University game being played at its originally scheduled athletic venue. However, the Parties recognize that it is preferred that University reschedule a game at a different date or time in an effort to keep the game as a home game instead of moving the location of the game to the visiting team's home venue or moving the game to a neutral venue; or

D. If Learfield is not permitted to sell any and all categories of sponsorships not specifically prohibited herein, or to sell to any and all sponsors other than those specifically excluded herein, or to continue to sell all inventory managed or sold by Learfield at any time during the Term of this Agreement, or should the NCAA, the WAC or the University disapprove of any commercial inventory, category, or sponsor that had been previously allowed by the NCAA, the WAC or University for any reason other than compliance with policies, regulations and laws which existed as of the date of the RFP, and such disallowance results in a material deviation in the type, kind or quantity of inventory provided to Learfield and University fails, upon receipt of written notice from Learfield of such a deviation, to cure such deviation within sixty (60) days of such notice, in such case, and both parties have used best efforts to mitigate the material deviation, the University agrees in advance that, pursuant to Section 4.1, then University shall negotiate in good faith with Learfield for a fair and equitable reduction in Learfield's Guaranteed Royalty Fee based upon the amount of commercial sponsorship or sponsorship dollars that were lost due to the exclusion of said sponsor or inventory; or

E. All of the events described in this Section 4.2 and elsewhere in this Agreement which give rise to a reduction in the Guaranteed Royalty Fee are hereafter singularly referred to as an "Adjustment Event" and collectively as "Adjustment Events". Examples of Adjustment

Events are:

- the NCAA eliminates malt beverage advertising and Learfield is able to show that it has been financially adversely affected by such decrease;
- the Base Sponsorship Inventory is reduced or adjusted;
- Learfield is prohibited from selling specific sponsorships which were sold by University at the same or higher historical levels; and
- a decrease in the number of games available through Third Tier Television Rights from that which was historically available and Learfield is able to show that it has been financially adversely affected by such decrease.

Provided however that University exercising its approval rights shall not be considered an “Adjustment Event”, unless it was an approval right that was not to be unreasonably withheld and University was unreasonable in its withholding of such approval.

**4.3 Conference Change.** Notwithstanding anything contained in this Agreement to the contrary, a fair and equitable increase in the Guaranteed Royalty Fee Payment may be negotiated in good faith and agreed upon by Learfield and University if University’s men’s football, men’s basketball or women’s basketball is moved to a conference other than WAC and/or the WAC becomes a BCS Conference during the Term of this Agreement.

**5.1 Revenue Sharing.** In addition to the annual Guaranteed Royalty Fee, Learfield will pay University, on or before August 31<sup>st</sup> of the following Athletic Year, 50% of collected Adjusted Gross Revenue (“AGR”) that exceeds the Revenue Share Hurdle set forth below (“Revenue Share Amount”). Any amounts collected after August 31<sup>st</sup> of each Athletic Year will be added to the calculation of AGR for the applicable year and paid when collected. AGR is defined as collected gross revenue (defined as total cash revenue, billed and collected, , less

agency commissions and third party rights fees such as NCAA or NIT related sponsorship fees) as well as all other direct out-of-pocket promotional costs such as tickets and client fulfillment expenses provided that all such costs have first been approved by University.

Athletic Year	Revenue Share Hurdle
2010 – 2011	\$3,885,000
2011 – 2012	\$4,035,000
2012 – 2013	\$4,335,000
2013 – 2014	\$4,445,000
2014 – 2015	\$4,485,000
2015 – 2016	\$4,635,000
2016 – 2017	\$4,785,000

If this Agreement is extended for the Extended Period(s), the Revenue Share Hurdle Amount shall be as following during each Extended Period:

2017 – 2018	\$4,935,000
2018 – 2019	\$5,085,000
2019 – 2020	\$5,235,000

Notwithstanding anything contained in this Section 5.1 or elsewhere in this Agreement to the contrary, if an Adjustment Event or Adjustment Events occur, the Revenue Share Hurdle amounts set forth above will likewise be adjusted to reflect the loss of revenue derived by Learfield under this Agreement. The amount of such adjustment shall be negotiated in good faith by the Parties.

**6.1 Trade.** In addition to the promotion benefits referenced in section 7.3 below, Learfield will use its best efforts to renew for University during each year of the Term up to the same amount of non-media in-kind-trade benefits in exchange for sponsorship rights which exists in the 2008 - 2009 Athletic Year which is valued at \$150,000 (“Threshold Amount”). For the avoidance of doubt, University shall be responsible for any trade, including hotel and automobile lease/transport trade whereby University exchanges tickets for goods or services in kind, but shall not give such partners any rights in inventory granted to Learfield under this Agreement other than that which has been provided to them historically and which shall be in consultation with Learfield. Learfield will also use its best efforts to secure during each year of the Term at least \$150,000 of additional in-kind-trade benefits in exchange for advertising or sponsorship rights granted hereunder above the Threshold Amount (“Additional Trade Amount”). The Threshold Amount and the Additional Trade Amount shall be referred to herein as the “Total Trade Amount”. University shall have approval of all such trade agreements, which approval will not be unreasonably withheld. All trade must be for University’s athletic marketing purposes only and will not be affected by any trade obtained by the University. Any in-kind-trade renewed or secured by Learfield will not reduce the amount of cash donations or contributions. Learfield reserves the right to substitute alternative inventory to current trade customers if those customers are otherwise displacing cash paying customers with University’s approval, which approval will not be unreasonably withheld. In the event that Learfield does not obtain in-kind trade benefits for University of value up to the Total Trade Amount, University shall have the right to enter into in-kind trade agreements with third parties without further recourse to Learfield.

**7.1 Extension Bonus.**

(i) If University exercises all three (3) of its one year options to extend the Term of this Agreement to include the Extended Period, as set out in Section 1.1(i) above, Learfield will pay University an extension bonus in the aggregate amount of \$500,000 once University exercises the third one year option, to be paid no earlier than July 1, 2017;

(ii) If University exercises one option for an extension of three years to extend the Term of this Agreement to include the Extended Period, as set out in Section 1.1(ii) above, Learfield will pay university an extension bonus in the aggregate amount of \$500,000 on July 1, 2015..

**7.2 Capital Stipend.** Beginning August 31, 2011, Learfield will provide University with a capital stipend of One Million Dollars (\$1,000,000) (“Capital Stipend”). Such Capital Stipend shall be payable ratably over the remaining Athletic Years of the Initial Term or as otherwise agreed with University, such approval not to be unreasonably withheld and consistent with both University and Learfield’s goals to provide significant capital improvements to University Athletics’ venues. University agrees that all of the Capital Stipend shall be expended by University toward its procurement of new University athletic venue sponsorship assets which will provide Learfield with additional sources of revenue opportunities and venue enhancements. By way of example, the Capital Stipend could be used by the University to help fund new video boards in the Stadium and/or in the Taco Bell Arena, or new scoreboards or LED or reader boards for football and basketball. All sponsorship opportunities with respect to all of these assets shall belong exclusively to Learfield and all revenue generated therefrom shall belong exclusively to Learfield and shall be included in the calculation of AGR. University agrees that Learfield shall have input into the final decisions regarding which new assets will be installed in

which athletic venue with the Capital Stipend as well as input into the “value engineering” of the sponsorship elements associated with these assets. University agrees that it will use its best efforts to use the Capital Stipend to purchase (or assist in the purchase) of assets or inventory at the athletic venue which is sold out on a regular basis or where the inventory at an athletic venue is already maximized (only the Stadium or the Taco Bell Arena).

### **7.3 Additional Incentives.**

7.3.1 Outdoor Sponsorships. Learfield will provide University throughout the Term through Lamar Outdoor the same amount of billboard sponsorships historically provided to University during the 2008 - 2009 Athletic Year.

7.3.2 Radio Promotion. Learfield will provide University throughout the Term not less than the amount of radio promotion offered by the University’s flagship station historically provided to University during the 2008 - 2009 Athletic Year.

7.3.4 Television Promotion. Learfield will provide University throughout the Term not less than the same amount of television promotion provided by television station KTVB historically provided to University during the 2008 - 2009 Athletic Year.

7.3.5 Print and Newspaper Promotion. Learfield will provide to University throughout the Term not less than the same amount of newspaper promotion provided by the Idaho Statesman and if possible, the amount of sponsorship currently provided by Yellow Pages and Impact.

7.4 DVD Guarantee: In consideration for the rights granted under section 2.8 above, Learfield shall pay to University a “DVD Guarantee”. This DVD Guarantee shall be calculated by taking the average of the annual revenue received by the Athletics Department of the University in respect of its football DVDs for the football seasons 2005/06 through



2009/2010 excluding, however from the calculation, the highest annual payment and the lowest annual payment received during that time period ("Initial DVD Guarantee Amount"). Annual shall mean calendar year. In addition to the Initial DVD Guarantee Amount, if Learfield produces and sells a football DVD, Learfield shall pay University an additional payment, if any, computed as follows: From the gross revenue collected by Learfield from DVD video sales there shall be subtracted therefrom the following: (i) approved production and distribution costs which shall be deemed approved if they are consistent with production and distribution costs incurred by Learfield or its Affiliates at other universities; and (ii) the Initial DVD Guarantee. University shall then receive 75% of the resulting amount, if any, and Learfield shall retain 25% of the resulting amount, if any. In no event however shall any of the revenue from DVD video sales be included in the calculation of AGR.

**8.1 General Terms and Conditions.** The terms and conditions contained in this Agreement will govern and will take precedence over any different or additional terms and conditions which Learfield or University may have included in any documents attached to or accompanying this Agreement, in the RFP and the response thereto or any letters between the Parties thereafter. Any handwritten changes on the face of this document will be ignored and have no legal effect unless initialed by both Parties.

**8.2 Choice of Law, Forum Selection, Entire Agreement and Amendment.** This Agreement will be construed under Idaho law (without regard for choice of law considerations). This Agreement and the Schedules attached hereto constitutes the entire agreement and understanding of the Parties and replaces any prior or contemporaneous agreement, whether written or oral, including, but not limited to the RFP. No amendments to this Agreement will be

effective unless in writing and signed by the Parties. The State courts located in Ada County, Boise, Idaho, shall have exclusive jurisdiction over any disputes relative to this Agreement.

**8.3 Assignment.** Learfield may not assign any rights or obligations of this Agreement without the prior approval of University, which approval will not be unreasonably withheld. In the event of any assignment, Learfield shall remain responsible for its performance and that of any assignee. This Agreement will be binding upon Learfield, or its successors and assigns, if any. Any assignment attempted to be made in violation of this Agreement will be void. Notwithstanding anything contained in this Section 8.3 to the contrary, Learfield will have the right to assign this Agreement and its rights and obligations hereunder to an entity it either controls (owns more than 50%) or manages.

**8.4 Termination.** Either party may terminate this Agreement in whole or in part for cause upon ninety (90) days written notice if the other party fails to comply with any material term or condition of this Agreement, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Agreement. Notwithstanding anything contained in this Section 8.4, the terminating party must state with particularity the specific matters of the other party's non-compliance, whereupon the other party shall have ninety (90) days to cure such matters, or such longer period if said other party is diligently pursuing a cure. In the event of any material noncompliance on the part of Learfield, Learfield shall continue to pay its Guaranteed Royalty Fee under this Agreement unless Learfield's noncompliance is a result in whole or in part by the actions or inactions of University; provided, however if University elects to administer the rights herein itself, any amounts collected by University from such rights in respect of contracts entered into by Learfield shall offset Learfield's obligation to pay the Guaranteed Royalty Fee by such amounts.

**8.5 Independent Contractor.** Learfield will perform its duties hereunder as an independent contractor and not as an employee of University. Neither Learfield nor any agent or employee of Learfield will be or will be deemed to be an agent or employee of University. Learfield will pay when due all required employment taxes and income tax withholding, including all federal and state income tax and any monies paid pursuant to this Agreement. Learfield and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise from University. Learfield will be solely responsible for the acts of Learfield, its employees and agents. Learfield shall provide worker's compensation for all its employees and indemnify and hold University harmless therefrom.

**8.6 Non-Waiver.** No waiver by any party of any default or nonperformance will be deemed a waiver of subsequent default or nonperformance.

**8.7 Audit and Retention of Books and Records.** University will have the right upon reasonable notice to Learfield, (not more than once per year, and once during the three years following the termination of this Agreement) to inspect and copy such books, records, and documents (in whatever medium they exist) related to the collection of monies, payment of expenses and calculating of the AGR hereunder. Learfield will make such items available for inspection during normal business hours at such location as Learfield's financial books and records are maintained. All such items will be retained by Learfield during the term of this Agreement and for a period of five (5) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Agreement will be retained by Learfield, its agents and subcontractors, if any, until the later of the date when the claim has been resolved or five (5) years after the date of final payment under this Agreement. As part of its

right of inspection and copying and not in addition thereto, University will have the right to conduct a formal audit or hire an independent auditor to audit such records. Learfield agrees to cooperate with the audit and provide access to all books and records required to verify AGR. In the event that such audit reveals unpaid monies due the University, Learfield shall make immediate payment of balances owed with plus interest, calculated at the rate of six percent (6%) per annum, calculated from the date such amount originally became due under this Agreement. In the event any such discrepancy is in excess of Fifty Thousand Dollars (\$50,000.00), Learfield shall also reimburse University for the reasonable costs associated with such inspection, including but not limited to, reasonable attorney's fees and legal costs incurred in connection therewith.

**8.8 University Information; Learfield Information.** Learfield agrees that any information it receives during the course of its performance, which concerns the personal, financial, or other affairs of University, its regents, trustees, directors, officers, or employees will be kept confidential and in conformance with all state and federal laws relating to privacy. University agrees that any information it receives from Learfield under this Agreement which concerns the personal, financial or other affairs of Learfield, its members, stockholders, officers, directors, employees and sponsors including, but not limited to, sales summaries, revenue sharing reports, settle-up documents and any other documents relating to the reporting of financial and sales information by Learfield to University will be kept confidential and in conformance with all state and federal laws relating to privacy.

**8.9 Insurance.** At all times during its performance under this Agreement, Learfield will obtain and keep in force, at its own cost, comprehensive general and professional liability and general liability insurance, including coverage for death, bodily or personal injury, property

damage, including product liability, libel and slander, media and broadcasting liability and automobile coverages, with limits of not less than \$1,000,000 each claim and \$1,000,000 each occurrence along with business interruption insurance coverage. All certificates evidencing such insurance, will be provided to University upon its request, will name University and its trustees, directors, officers and employees as additional insureds, and will provide for notification to University within at least thirty (30) days prior to expiration or cancellation of such insurance. Learfield represents that it has and will maintain during the Term worker's compensation insurance to the extent required by Idaho law.

**8.10 Indemnification.** Learfield agrees to defend, indemnify and hold harmless the State of Idaho, the University, their trustees, directors, officers, employees and agents from all liability, injuries, claims or damages (including claims of bodily injury or property damage) and loss, including costs, expenses, and attorneys' fees, which arise from the negligent acts and omissions of Learfield, its employees, officers and agents under this Agreement. Subject to the limits of liability specified in Idaho Code 6-901 through 6-929 known as the Idaho Tort Claim Act, the University agrees to defend, indemnify and hold harmless Learfield, its members, employees, officers, directors and agents from all liabilities, injuries, claims or damages (including claims of bodily injury or property damage) and loss, including costs and expenses, and attorneys' fees, which arise from the negligent acts or omissions of University, its trustees, directors, officers faculty, students, employees and agents. In the event of litigation by any party to enforce the terms and conditions of this Agreement, the prevailing party will be awarded costs and reasonable attorneys' fees.

**8.11 Notices/Administration.** Except as otherwise provided in this Agreement, all notices, requests and other communications that a party is required or elects to deliver will be in

writing and delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other party at its address set forth below or to such other addresses as such party may designate by notice given pursuant to this section:

**If to University :**

BOISE STATE UNIVERSITY

Attention: Gene Bleymaier, Director of Intercollegiate Athletics

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Boise, Idaho 83725

Facsimile No: (208) 426 1174

E-mail Address [gbleymaier@boisestate.edu](mailto:gbleymaier@boisestate.edu)

With a copy to:

BOISE STATE UNIVERSITY

Attention: General Counsel (Kevin Satterlee)

1900 University Drive, \_\_\_\_\_

Boise, Idaho 83725

Facsimile No: 208) 426 1345

**If to Learfield:**

BRONCO SPORTS PROPERTIES, LLC

c/o Learfield Communications, Inc.

Attention: Greg Brown

2400 Dallas Parkway, Suite 500

Plano, TX 75093

Facsimile No: (469) 241-0110

E-mail Address: [gbrown@learfield.com](mailto:gbrown@learfield.com)

**With a copy to:**

Philip A. Kaiser

The Kaiser Law Firm, P.C.

12231 Manchester Road, First Floor

St. Louis, MO 63131

Facsimile No: 314-966-7744

E-mail Address: [phil@kaiserlawfirm.com](mailto:phil@kaiserlawfirm.com)

**8.12 Severability.** If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of the Agreement, or the application of such provision to

persons other than those as to which it is held invalid or unenforceable, will not be affected and each provision of the remainder of the Agreement will be valid and be enforceable to the fullest extent permitted by law.

**8.13 Survivability.** The terms, provisions, representations, and warranties contained in this Agreement that by their sense and context are intended to survive the performance thereof by any of the parties hereunder will so survive the completion of performance and termination of this Agreement, including the making of any and all payments hereunder.

**8.14 Force Majeure.** No Party will be considered to be in default of its delay or failure to perform its obligations herein when such delay or failure arises out of causes beyond the reasonable control of the Party. Such causes may include, but are not restricted to, acts of God or the public enemy, including, but not limited to, acts of terrorism, acts of state or the United States in either its sovereign or contractual capacity, fires, floods, epidemics, strikes and unusually severe weather; but in every case, delay or failure to perform must be beyond the reasonable control of and without the fault or negligence of the Party.

**8.15 Counterparts.** This Agreement may be executed in two counterparts, each of which shall be deemed an original, and both of which will constitute one Agreement.

**8.16 Non-Solicitation by University.** University agrees that during the Term of this Agreement, and for a period of twenty-four (24) months, after its termination, irrespective of the reason for its termination, shall not directly or indirectly, hire or solicit an officer, general manager, assistant general manager, or account executive of Learfield or encourage any such person to terminate its relationship with Learfield without first obtaining consent from Learfield. University acknowledges that its breach of this section shall entitle Learfield to injunctive relief.

**8.17 Headings.** The headings of the sections of this Agreement are used for convenience only and do not form a substantive part of the Agreement.

**8.18 Injunctions.** In addition to any other remedies permitted by law, should any Party violate the terms set forth herein, the violating party shall be entitled to injunctive relief against the other to restrain any further violation of these provisions. Should any Party be successful in this endeavor, the other party shall pay all costs and expenses associated therewith, including reasonable attorney's fees.

**8.19 University's Representations and Warranties Regarding Learfield's Rights Under this Agreement.** University represents and warrants to Learfield that (a) University has the absolute right to grant and license the rights described in this Agreement to Learfield and provide Learfield and/or its sponsors all of the benefits described in this Agreement as well as those benefits at the historical levels provided by University to sponsors, (collectively the "Licensed Rights and Benefits"); (b) there are no oral or written agreements, contracts, options or other documents of any kind which University has entered into which would in any way impair or inhibit Learfield from exercising the Licensed Rights and Benefits on an exclusive basis; (c) University is authorized to timely carry out and/or fulfill any obligation of University to Learfield under this Agreement; and (d) Throughout the Term, except as otherwise specifically provided in this Agreement, University shall not directly or indirectly grant any third party any of the Licensed Rights and Benefits granted to Learfield under this Agreement. Notwithstanding anything contained in this Agreement to the contrary, if University materially breaches the provisions of this Section 8.19, an adjustment to the Guaranteed Royalty Fee and the Guaranteed Naming Rights Fee that Learfield will pay University under this Agreement shall be negotiated in good faith in order to recognize and account for the revenue that cannot be



obtained by Learfield as a result of such material breach. Notwithstanding the foregoing, and notwithstanding anything in this Agreement, in the event that a University department other than the Athletics department enters into a sponsorship or advertising agreement, in association with an Athletic event and held on campus (a “Non-Athletics Activity”) that could compromise the rights granted herein by University to Learfield, such action shall not be deemed a material breach hereunder provided that the Athletics department uses best efforts to prevent such non-Athletics Activity reoccurring or ensuring that such Non-Athletics Activity does not compromise Learfield’s rights in the future.

**8.20 Code of Fair Practices.** Learfield shall not discriminate against any employee or applicant for employment because of race, color, religion, sexual orientation, gender identification, marital status, national origin, sex, age, or physical or mental disability, or status as a US veteran. Learfield shall take affirmative action to ensure that applicants are employed and that the employees are treated during employment without regard to their race, creed, color, religion, national origin, sex, age, or physical or mental disability or status as a Vietnam-era/disabled veteran, except where it relates to a bona fide occupational qualification. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. If applicable to this Agreement, Learfield shall comply with the provisions of Federal Executive Order 11246 as amended by Executive Order 11375. In the event of Learfield’s non-compliance with the above non-discrimination clause of this contract or with any of the aforesaid regulations, this contract may be canceled, terminated or suspended in whole or in part and Learfield may be declared ineligible for further contracts with the University. In addition, the University may take such

further action, and such other sanctions may be imposed and remedies invoked, as provided by the laws of Idaho.

**8.21 Laws and FCC Regulations** Learfield agrees to, and shall ensure that its partners, abide by all laws of the Federal government, the State of Idaho and any other state, municipal or governmental entity associated with its activities under this Agreement. It further agrees it will be responsible for securing and paying for all permits necessary to fulfill its obligations under this Agreement. Learfield agrees to operate, and ensure that its media partners operate, both radio and television network activities in strict compliance with all applicable Federal Communication Commission regulations and all rules and regulations of the WAC Conference or any other applicable conference, as well as, the National Collegiate Athletic Association.

**9.0 Miscellaneous.**

**9.1 “Best Efforts”** whether or not such term is capitalized shall mean a diligent, reasonable and good faith effort by a Party to accomplish an objective, but does not require its accomplishment. Such degree of effort will take into account unanticipated events and the exigencies of continuing business, but does not require that events or exigencies be overcome at all costs. It only requires that commercially reasonable efforts be exercised within a reasonable time to overcome any hurdles and accomplish the objective, allowing the Party to give reasonable consideration to its own interests.

**9.2 “Net Revenue”** whether or not such term is capitalized shall mean Gross Revenue less those costs incurred by Learfield and agreed by University, provided that if the costs and budget are in line with those of any other Comparable Learfield Schools, as defined in Section 2.1 above, University shall not withhold approval.

**9.3** Whenever consent or approval is required, unless otherwise provided herein, the consent or approval shall not be unreasonably withheld.. Learfield agrees that in exercise of its

rights granted hereunder, it shall ensure that any advertising, sponsorship or other representation of the University shall be mindful of and consistent with the good image, message and reputation of the University. Furthermore Learfield shall ensure that all sponsors, advertisers, media partners and other parties with whom Learfield enters into arrangements with in accordance with the terms of this agreement, shall be mindful of and consistent with the good image, message and reputation of the University and that promotion or recognition of such third party will not distort or impair the presentation and image of the University, its Athletics program and the respective teams.

9.4 At the request of University, Learfield shall provide a copy of all fully executed advertising and sponsorship contracts to University's Director of Athletics or his/her designee responsible for marketing.

9.5 No contract entered into by Learfield with a sponsor shall exceed the term of this Agreement, unless approved by University. Potential sponsorship contracts extending past the term of this Agreement are to be brought to University. All sponsorship contracts that extend beyond the Agreement Term stated in this Agreement shall include language that automatically assigns and transfers the contract to University, should the Agreement terminate, be terminated consistent with this Agreement, or not be retained by Learfield due to a competitive bid process.

9.6 Learfield agrees it will not contractually restrict the ability of University to enter into business transactions with a sponsor or a competing business of a sponsor. Agreements cannot preclude other non-athletic events that utilize competing sponsors from being scheduled in University venues and/or facilities including Taco Bell Arena and Bronco Stadium. Learfield may not enter into beverage pour rights contracts for University's facilities, beverage sponsorship contracts for University or beverage advertising contracts that reference University's

athletic teams, facilities or events. Learfield may not enter into any contracts or agreements which could conflict with University's apparel contract with Nike (or the applicable provider).

It is understood that apparel and affinity card contracts will be maintained by the University and are not a part of this Agreement. Nothing contained in this Agreement shall prevent University from contracting for sponsorships, acknowledgments and fund raising activities, when such agreements are not associated with the University's Athletic Department, facilities, and teams.

**10.1 Intellectual Property** Both parties agree that University owns the intellectual property rights associated with the University, its athletic teams, its facilities and the associated events and broadcasts. The ownership of intellectual property, which results from activities associated with this Agreement, will remain with University. Each party shall retain ownership of any of its patents copyrights, trademarks, or intellectual property developed prior to the Effective Date of this Agreement. University shall also retain ownership of any patents copyrights, trademarks, or intellectual property developed by University or jointly developed after the Effective Date of this Agreement.

**10.2 Use of University Marks:** Learfield agrees that the broadcast and advertisement intellectual property rights defined herein shall belong to University. University will maintain all right, title and ownership in its name, trademarks, service marks, logos, symbols, college colors and other licensed indicia ("University Marks and Indicia"). No rights may be obtained for trademark ownership of the University marks. Upon dissolution or expiration of this Agreement, all use of these items by Learfield shall cease. Learfield agrees that it shall comply with any and all style guidelines and use policies of the University in respect of University Marks and Indicia as may be amended from time to time.

10.3 Commercial Advertising. University reserves the right to charge royalty fees for uses of University Marks or Indicia in respect of any items sold at retail (which shall not be permitted without University's prior approval).

**IN WITNESS WHEREOF**, the Parties have entered into this Agreement as of the  
Effective Date specified above.

**BOISE STATE UNIVERSITY**

**BRONCO SPORTS PROPERTIES, LLC**

**By:   Learfield Communications, Inc.,  
Sole Member**

**By: \_\_\_\_\_**

**By: \_\_\_\_\_  
Greg Brown, President – Learfield Sports**

**Name:     Gene Bleymaier  
Title:     Director of Athletics**

**By: \_\_\_\_\_**

**Name:     Stacy Pearson  
Title:     Vice President Finance and Administration**

## SCHEDULE 3.1

**TICKETS TO BE PROVIDED  
BY UNIVERSITY TO LEARFIELD  
EACH ATHLETIC YEAR**

<b><u>SPORT</u></b>	<b><u># SINGLE GAME TICKETS</u></b>	<b><u># SEASON TICKETS</u></b>
FOOTBALL	_____	_____
MEN'S BASKETBALL	_____	_____
WOMEN'S BASKETBALL	_____	_____
OTHER SPORTS	_____	_____
<b><u>CONFERENCES &amp; TOURNAMENTS</u></b>		<b><u># TICKETS</u></b>
WAC FOOTBALL CONFERENCE CHAMPIONSHIP GAME		_____
WAC MEN'S BASKETBALL CONFERENCE TOURNAMENT		_____
WAC WOMEN'S BASKETBALL CONFERENCE TOURNAMENT		_____
FOOTBALL BOWL GAME (IF UNIVERSITY IS A PARTICIPANT)		_____
NCAA MEN'S & WOMEN'S BASKETBALL TOURNAMENT GAMES (ALL GAMES IN WHICH UNIVERSITY TEAM IS A PARTICIPANT)		_____

**SCHEDULE 3.9**

**LIST OF EXCLUDED AGREEMENTS**

Nike apparel contract

Coca-Cola pouring rights contract

Boise Office Equipment (expires June 30, 2011) (University will not renew or extend this agreement)

Agri-Beef – Stueckle Sky Center agreement



**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**UNIVERSITY OF IDAHO**

**SUBJECT**

Easement to Idaho Power Company at the University of Idaho's Nancy M Cummings Research, Education, and Extension Center in Lemhi County

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.I.5.b(2)

**BACKGROUND/DISCUSSION**

The University of Idaho is constructing new cattle pens, feed bunks, and corrals at the Nancy M. Cummings Research, Extension, and Education Center near Salmon. The new facilities are located on portions of the Center not currently served with electricity. Electricity is needed for these facilities to prevent water freezing, operate identification readers and food monitors necessary for research purposes and to operate a motor used for a cattle handling chute. To extend electric service, the local utility, Idaho Power, must place new service delivery equipment on Regents property. Idaho Power requires an easement for placement of the service requested by University staff at the Center.

**IMPACT**

In addition to granting this easement, the University will pay Idaho Power approximately \$5,500 for the costs of actual installation of the poles, wires and related infrastructure needed to provide electric service to the new facilities. Funding for the installation costs will be provided from the College of Agricultural and Life Sciences' project budget for the improvements at the Center.

**ATTACHMENTS**

Attachment 1 – Proposed Easement

Page 3

**STAFF COMMENTS AND RECOMMENDATIONS**

This easement will facilitate delivery of basic utility services to the University's newest agricultural research center, which is necessary in order to provide quality instruction and perform valuable research on site.

Staff recommends approval.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**BOARD ACTION**

A motion to approve the grant of an easement to Idaho Power Company in substantial conformance to the form submitted to the Board in Attachment 1, and to authorize the University's Vice President for Finance and Administration to execute the easement and any related transactional documents.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_



For County Recorder's Use Only

## Easement—Organization

Board of Regents of the University of Idaho

a State Educational Institution and Body Politic and Corporate Organized and Existing Under the Constitution and Laws of the State of Idaho "**Grantor(s)**", of Latah County, State of Idaho, does hereby grant and convey to IDAHO POWER COMPANY, a Corporation, with its principal office located at 1221 W. Idaho Street, Boise, Idaho, 83702 (P.O. Box 70, Boise, ID 83707), its licensees, successors, and assigns, (collectively, "**Grantee**"), for One Dollar and other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, a permanent and perpetual easement and right of way, at all times sufficient in width for the installation, erection, continued operation, maintenance, repair, alteration, inspection, and/or replacement of the following:

**Overhead Facilities:** Overhead electrical transmission, distribution and communication lines, including fiber optics, and circuits of Grantee, attached to poles or other supports, together with guys, cross-arms, supports, stabilizers and other attachments and incidental equipment thereon and appurtenances, (all of the foregoing collectively being referred to as the "**Facilities**"), together with the Grantee's right to permit the attachment of the wires, fixtures, cables and conduits of other companies or parties (all of the same being included within the definition of "**Facilities**"), over, on, and across the premises belonging to Grantor(s) in Lemhi County, State of Idaho, in the location described below;

Grantee is hereby also granted the perpetual right of ingress and egress over Grantor's other property necessary for the full and complete use, occupation, and enjoyment of the easement hereby granted, and together with all rights and privileges incident thereto, including, but not limited to, (i) the right, at Grantee's expense, to cut, trim, and remove trees, brush, bushes, sod, flowers, shrubbery, overhanging branches and other obstructions and improvements which may injure or interfere with Grantee's use, occupation, or enjoyment of this easement, and (ii) the right, at Grantee's expense, to install, construct, operate, inspect, alter, maintain, replace, improve and repair any and all aspects of Grantee's Facilities on, over, through, under and across the lands subject to this easement.

The location of the easement and right of way granted herein is described as follows:

A strip of land, twenty feet wide, ten feet on each side of the centerline located within the Southwest 1/4 of the Southeast 1/4 of Section 29, Township 23 North, Range 22 East, Boise Meridian, Lemhi County, Idaho. Said centerline is affecting the Grantor's property described in Gift Deed Instrument No. 266778, and is more particularly described as follows:

**COMMENCING** at the East 1/16th Corner on the South Line of said Section 29, being monumented and perpetuated as described in Instrument No. 244155. (*From which the Center-East 1/16th Corner of said Section 29 bears North 00°10'00" East---Basis of Bearing per BLM Cadastral Survey Group No. 909, Dated 17Mar1999---a distance of 2637.66 feet, and is monumented and perpetuated as described in Instrument No. 244148.*) Thence North 00°10'00" East, along the East 1/16th Line of said Section 29, a distance of 89.71 feet to the **TRUE POINT OF BEGINNING**.

Thence North 20°39'54" West, a distance of 157.77 feet to a point known herein as **POINT A**.

Thence North 32°25'59" East, a distance of 86.37 feet to a point known herein as **POINT B**.

Thence North 00°10'00" East, parallel with and 10.00 feet West of the said East 1/16th Line, a distance of 311.01 feet to the **FIRST POINT OF TERMINUS**.

And also, from said **POINT A**, thence North 20°39'54" West, a distance of 42.69 feet to the **SECOND POINT OF TERMINUS**.

And also, from said **POINT B**, thence South 00°10'00" West, a distance of 42.13 feet to the **THIRD POINT OF TERMINUS**.

The sidelines of said strip of land are to lengthen or shorten as required to provide a continuous strip of land.

Grantor shall not alter the grade or elevation of the land within the right-of-way existing on the date hereof through excavations, grading, installation of berms, or other activities without the prior written approval of Grantee. Grantor shall not place nor build any structure(s) within the easement area except fences and except as otherwise approved by Grantee in writing.

This Easement shall run with the land and be binding upon the parties' successors and assigns.

Executed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Checked by \_\_\_\_\_ DA \_\_\_\_\_

Work Order # \_\_\_\_\_ 27308440 \_\_\_\_\_

Signature(s) of Grantor(s) *(Include title where applicable)*:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Corporate Verification

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss.

I, \_\_\_\_\_ *(Notary's Name)*, a notary public, do hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_ *(Individual's Name Including Title)* and \_\_\_\_\_ *(Individual's Name Including Title)*, who, being by me first duly sworn, declared that he/she/they are respectively the duly authorized person(s) of Board of Regents of the University of Idaho *(Organization Name)*, that he/she/they signed the foregoing document, and acknowledged to me that he/she/they executed the same as the free act and deed on behalf of said organization.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires on \_\_\_\_\_



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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**UNIVERSITY OF IDAHO**

**SUBJECT**

Amendment to sublease at the Idaho Water Center between the University of Idaho and CH2M Hill

**REFERENCE**

December 2004  
October 2006

Board approved original Sublease  
Board approved First Amendment to Sublease

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.I.5.b(1)

**BACKGROUND/DISCUSSION**

In 2005, the University of Idaho subleased approximately 50,000 square feet of the Idaho Water Center to CH2M Hill. In 2007, the sublease was amended to permit expansion of CH2M Hill offices into an additional 5,200 square feet. The original sublease and its first amendment term ends in June 2010. CH2M Hill has asked to revise several terms of the expiring sublease including extension of its term through June 2013, through an amendment.

The University of Idaho is bringing this Second Amendment forward for approval because it effectively creates a new term for an otherwise terminating sublease and modifies certain business terms within the existing sublease. Amended terms to the existing sublease include: 1) reduction by about 5,200 square feet of the premises currently being leased by CH2M Hill, 2) establishment of a new lease rate (\$18/sf/yr) more consistent with current lease rates for office space near downtown Boise than the rate CH2M Hill was entitled to under their existing lease option, 3) painting and carpet cleaning and repair of some wear and tear of the premises, as well as improvements to the acoustics of some of the meeting rooms, 4) option to vacate up to an additional 8,750 square feet during the newly established term of the lease, 5) extension of options to continue to lease through June 2019, as well as re-definition of other provisions related to expansion considerations, signage, operating expense adjustments, assignment, holdover terms, and the commission rate for this new term. The proposed amendments would take effect July 1, 2010.

**IMPACT**

Tenant improvement (painting, acoustics, etc) costs for this lease extension will be approximately \$175,000 for the term and can be covered by annual lease income that starts at \$912,000 for the first year with 2.5% escalations for each year of the term thereafter. The re-negotiated lease rate of \$18/sf/yr, with a 2.5% escalator is a decrease from the current rate of \$20.26/sf/yr which had been

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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reached with the 3% escalator of the expiring sublease (FY 2010 annual sublease income is \$1.12 million plus an additional increment for CH2M Hill's payment for tenant improvements that were in excess of the tenant improvement allowance provided in the current base rent). The new rate is consistent with today's commercial lease rates in the Boise market that are available to CH2M Hill upon termination of the current sublease. These amendments allow the University of Idaho to maintain a substantial income stream from rent and keep a successful tenant in the Idaho Water Center, complementing the work of other tenants and activities in the building, while freeing up needed space for the University's programmatic purposes. It is the University's intent to immediately occupy the 5,200 square feet being vacated by CH2M Hill subject to funding for required remodeling to meet expanding program needs for UI Boise.

**ATTACHMENTS**

Attachment 1 – Draft Second Amendment to the Sublease

Page 3

**STAFF COMMENTS AND RECOMMENDATIONS**

This sublease amendment will free up needed programming space for the University while maintaining a tenant germane to the mission of the Center and a valuable revenue source.

Staff recommends approval.

**BOARD ACTION**

A motion to approve the Second Amendment to the Sublease between the University of Idaho and CH2M Hill in substantial conformance to the form submitted to the Board in Attachment 1 and to authorize the University's Vice President for Finance and Administration to execute the Second Amendment to the Sublease and any related transactional documents.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_



**SECOND AMENDMENT TO SUBLEASE**

This Second Amendment to Sublease (Second Amendment) is made by and between the Board of Regents of the University of Idaho (Sublessor), and CH2M Hill, Inc, a Florida corporation (Sublessee), collectively, the Parties. This Second Amendment shall revise the Sublease commencing on June 24, 2005, and the First Amendment to Sublease effective on April 20, 2007 (both attached as Exhibit 3 to this Second Amendment, with such numbering being a continuation of the exhibit numbering for the Sublease and its First Amendment, which include and incorporate Exhibits 1 and 2) between the Parties. The terms of this Second Amendment shall be binding upon signature by both parties, and shall go into effect on July 1, 2010. However, the terms of the Sublease and First Amendment shall remain in place and be controlling through June 30, 2010.

Now, THEREFORE, in consideration of the mutual promises contained herein, Sublessor and Sublessee include the above paragraph in the terms herein and further agree as follows:

A. Section 1.4 and Exhibit B of the Sublease and its First Amendment are hereby deleted and replaced with the following amended Section 1.4 and a replacement for the deleted Exhibit B which is attached to this Second Amendment as "Exhibit 3B":

**"1.4 Premises.** The 'Premises' are located within the Idaho Water Center, 322 E Front St, Boise ID and comprise 50,702 rentable square feet as shown on the attached Exhibit 3B and further broken down as 17,507 rentable square feet on the 2<sup>nd</sup> floor, 15,780 rentable square feet on the 3<sup>rd</sup> floor and 17,415 rentable square feet on the 4<sup>th</sup> floor."

B. Section 1.6 of the Sublease is hereby deleted and replaced with the following amended Section 1.6:

**"1.6 Term and Commencement Date.** This Sublease shall commence on July 1, 2010 (the "Commencement Date") and shall end on June 30, 2013 ("Term)."

C. Section 1.7 and Exhibit C of the Sublease and its First Amendment are hereby deleted and replaced with the following amended Section 1.7 and a replacement for the deleted Exhibit C which is attached to this Second Amendment as "Exhibit 3C" :

**"1.7 Base Rent.** Effective July 1, 2010, Sublessee shall pay annual rent ("Base Rent"), at a rate of \$18.00 per rentable square foot per year for the first year of the Term. Base Rent shall be escalated 2.5% for each subsequent year of the Term. The Base Rent for the Term is inclusive of Sublessee's share of service and operating expenses as listed in Exhibit 3C subject to operating expense adjustments as described in Section 5.10 of this Sublease (as amended). Such Base Rent shall be paid monthly."

D. Section 1.9, Exhibit E and Exhibit F of the Sublease and its First Amendment are hereby deleted and replaced by the following amended Section 1.9 and a replacement for the deleted Exhibit F which is attached to this Second Amendment as "Exhibit 3F":

**“1.9 Expansion Space.** In the event any space shaded on Exhibit 3F or any space Sublessee has vacated as provided by the amended Section 1.11 herein is vacant (empty of occupants, equipment, and use including use by Sublessor), Sublessee may upon written notification to Sublessor request to expand into such additional space and Sublessor shall within sixty days confirm that such space is vacant (as defined above) and not subject to existing expansion rights by the Idaho Department of Water Resources (as provided under a separate Operating Agreement dated December 17<sup>th</sup>, 2002, between Sublessor and that agency). In the event the space is vacant and not subject to expansion rights of the Idaho Department of Water Resources, Landlord shall approve Sublessee’s expansion request subject to negotiation of base rent (which shall be no higher than the then current Base Rent for existing Premises established by the Second Amendment ) and a tenant improvement allowance agreeable to both parties. Such expansion shall be with the terms of the Lease and this Sublease as amended. After Sublessor’s approval of expansion (which shall be granted except as provided above) and upon Sublessee’s occupation of any expansion space, Base Rent and any other payments based on size of occupancy (including but not limited to the percentage share of operating expenses defined in Section 5.10 as amended herein) shall be adjusted to reflect the expanded Premises. In the event Sublessee’s occupancy commences on a day other than the first day of the month, such rent for that partial month shall be pro-rated based on the number of days actually occupied (including weekends and holidays following commencement of occupancy) as a share of actual days in that month. ”

E. Section 1.10, Exhibit G, and Exhibit 2 of the Sublease and its First Amendment are hereby deleted and replaced with the following amended Section 1.10 and a replacement for the deleted Exhibit G which is attached to this Second Amendment as “Exhibit 3G”:

**“1.10 Tenant Improvements.** Prior to July 1, 2010, Sublessor at Sublessor’s expense, shall complete tenant improvements as described and listed in Exhibit 3G. In the event the total expenses to complete such tenant improvements for acoustics (as separately listed in Exhibit 3G) are less than \$50,000, any funds remaining from this \$50,000 allowance shall be deducted from Sublessee’s December 2010 Base Rent due. Sublessor shall complete or contract to have the acoustic improvement work described on Exhibit 3G completed, but Sublessor does not warrant or guarantee that such work prescribed by Sublessee and included as a part of Exhibit 3G shall perform to any standards or measure of improvement for acoustic quality in those portions of the Premises in which that work is completed.”

F. Section 1.11 and Exhibit H of the Sublease are hereby deleted and replaced with the following amended Section 1.11:

**“1.11 Contraction Rights.** After July 1, 2011, Sublessee, with no less than nine months prior written notice to Sublessor may terminate its lease for no more than 8750 rentable square feet during the Term of this Lease. Such contraction shall be approved by Sublessor so long as the vacated space is commercially and/or operationally viable for Sublessor to release or otherwise occupy. Upon contraction, Base Rent and any other payments based on size of occupancy shall be adjusted to reflect the reduced Premises in the subsequent month’s rent payment.”

G. Section 3.1 of the Sublease is hereby deleted and replaced with the following amended Section 3.1:

**“3.1 Term.** This Sublease shall commence on July 1, 2010 and shall end on June 30, 2013.”

H. Section 3.2 of the Sublease is hereby deleted and replaced with the following amended Section 3.1:

**“3.2 Renewal and Renewal Term Base Rent.** Sublessee, with written notice provided to Sublessor prior to January 1, 2013, shall be entitled to extend this Sublease to a term from July 1, 2013 through June 30, 2016 (‘First Renewal Term’). For the First Renewal Term, Sublessee shall pay \$19.38 per rentable square foot per year for the first year (‘First Renewal Term Base Rent’) and then First Renewal Term Base Rent shall escalate 2.5% for each subsequent year of the First Renewal Term. For the purposes of calculating operating expenses during the First Renewal Term, the Base Year shall be 2013. In the event Sublessee exercises its option to take the First Renewal Term, Sublessee (upon written notice provided to Sublessor prior to January 1, 2016) shall be entitled to extend this Sublease to a term from July 1, 2016 through June 30, 2019 (‘Second Renewal Term’). For the Second Renewal Term, Sublessee shall pay \$20.87 per rentable square foot per year for the first year (‘Second Renewal Term Base Rent’) and then Second Renewal Term Base Rent shall escalate 2.5% for each subsequent year of the Second Renewal Term. For the purposes of calculating operating expenses during the Second Renewal Term, The Base Year shall be 2016.”

J. The first sentence of Section 5.2 of the Sublease is amended to replace the reference to “Exhibit C” with its replacement “Exhibit 3C” as previously established by this Second Amendment.

K. Section 5.4 of the Sublease is hereby deleted and replaced with the following amended Section 5.4:

**“5.4 Signs.** No permanent signs (unless previously permitted in the original Sublease Section 5.4, as shown in Exhibit 3 to this Second Amendment) shall be affixed to the Premises, or installed, replaced or improved by Sublessee without Sublessor’s prior written consent, which consent may not be unreasonably withheld, delayed or conditioned. All such installation, replacement, improvement, or maintenance of signs shall be at Sublessee’s sole expense. All signs placed or maintained on the Premises are subject to and shall comply with all rules, applicable ordinances and public regulations (including standards and requirements established by the Civic Plaza Condominium Declaration). Sublessor agrees to utilize its available funding and diligently pursue approval and physical installation of one exterior monument sign for the building by July 31, 2010. Such sign shall be placed at street level and shall identify the name of the building and street address. Failure of Sublessor to receive third party approval for such

sign, so long as such approval is diligently pursued by Sublessor, shall not constitute a breach of terms or default by Sublessor.”

L. Section 5.10 of the Sublease and its First Amendment are hereby amended by deleting the First Amendment’s addition to Section 5.10 in its entirety and deleting the heading and first four sentences of the original Sublease Section 5.10 and replacing those sentences with the following opening sentences for this amended Section 5.10:

**“5.10 Operating Expenses and Adjustments.** Operating expenses are included in the Base Rent amount for the first year of the Term (‘Base Year’). The components of building operating expenses for such base year are shown in Exhibit 3C and shall at no time include capital costs. Total building operating expenses (based on full building occupancy) for Base Year (‘Base Year Operating Expenses’) shall be established with the 2010 calendar year and shall be applied in accordance with this section during the second and each subsequent year of the Term. Sublessee’s share of building operating expenses is 28.49% (this amount is higher than the Premises rentable square footage reported in Section 1.4 as amended, but is the agreed upon percentage of the building used for calculating operating expense allocation to Sublessee). This percentage shall be increased or decreased in proportion to any expansion or contraction permitted by this Sublease as amended.”

The sentences of Section 5.10 in the original Sublease which follow the first four sentences remain in effect and are a part of this Sublease as amended.

M. Section 6.3 of the Sublease is hereby deleted and replaced with the following amended Section 6.3:

**“6.3 Sublessee Assignment and Sub-Sublease of Premises.** Any assignment or sub-sublease shall be subject to the provisions of the Lease and other legally recorded covenants of restrictions, placed on the Premises. Subject to these limitations, Sublessee may, upon notice to but without written approval from Sublessor assign its interests under this Sublease, as amended, to (a) any entity resulting from a merger or consolidation with Sublessee, (b) any entity succeeding to the business and assets of Sublessee, or (c) any affiliated subsidiary or related company of Sublessee. Aside from these listed exceptions, Sublessee may NOT assign or sublet all or a part of its interests in this Sublease as amended unless Sublessee first obtains the written consent of Sublessor, which consent shall be based upon Sublessor’s determination that the new party’s business and activities and intended use of the Premises are in Sublessor’s reasonable judgment consistent with the current occupancy of the remaining building. Sublessor’s consent based upon this judgment shall not be unreasonably withheld or delayed. Any losses or profits sustained from such sub-sublease shall accrue to the Sublessee.”

N. Section 9.3 of the Sublease is hereby amended to replace the holdover payment amount of 150% of the previous Term’s Base Rent with the provision that Sublessee shall pay 125% of the previous Term’s Base Rent for the first three months of holdover and 150% for each month thereafter.

O. The second sentence of Section 11.2 of the Sublease is hereby amended to replace the commission rate of 6% with a 3% rate for this new Term.

P. If there is any conflict between the terms and provisions of this Second Amendment and the terms and provisions of the Sublease as previously amended, the terms and provisions of this Second Amendment shall govern. Except as specifically set forth herein, all other provisions of the Sublease and previous amendments thereto shall remain in full force and effect and be binding upon the Parties in accordance with the terms therein.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment on the date(s) set forth below.

SUBLESSEE

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Date

SUBLESSOR

\_\_\_\_\_  
Lloyd E. Mues, Vice-President  
Finance & Administration

\_\_\_\_\_  
Date

IDAHO STATE BUILDING AUTHORITY CONSENT

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

## FIRST AMENDMENT TO SUBLEASE

This First Sublease Amendment (Amendment) is made by and between the Regents of the University of Idaho (Sublessor), and CH2MHill, Inc, a Florida Corporation (Sublessee), collectively the Parties. This Amendment shall revise the Sublease (attached as Exhibit 1) between the Parties commencing on June 24, 2005, and shall become effective upon the date consented to by the Idaho State Building Authority.

Now, THEREFORE, in consideration of the mutual promises contained herein, Sublessor and Sublessee agree as follows:

A. Section 1.4 of the Sublease is hereby amended to add the following at the end of the existing Section 1.4:

“In the event the Expansion Space and Renewal Expansion Space (as each are defined in Section 1.9 of this Sublease) are occupied by Sublessee, the total rentable square footage of 55,508 square feet will be used to calculate Base Rent.”

B. Section 1.7 of the Sublease is hereby amended to add the following at the end of the existing Section 1.7:

“In the event the Expansion Space and Renewal Expansion Space (as each are defined in Section 1.9 of this Sublease) are occupied by Sublessee, the monthly Base Rent from the time of commencement of occupation of the Renewal Expansion Space through June 30, 2007 shall be \$92,930. The monthly Base Rent for the period between July 1, 2007 and June 30, 2008 shall be \$95,705. The monthly Base Rent for the period between July 1, 2008 and June 30, 2009 shall be \$98,573. The monthly Base Rent for the period between July 1, 2009 and June 30, 2010 shall be \$101,533. These amounts shall be adjusted in accordance with the provisions for adjustments for tenant improvements as provided in Section 1.10 and adjustments for operating expenses as provided in Section 5.10.”

C. Section 1.9 of the Sublease is hereby deleted and replaced with the following amended Section 1.9:

**1.9 Expansion Space and Renewal Expansion Space.** Sublessee, with written notice provided to Sublessor prior to July 1, 2007, shall be entitled to occupy additional space, located on the fourth floor, 3,961 RSF, under the terms of this Sublease (“**Expansion Space**”) as graphically shown on **Exhibit E**. Upon notification, Sublessor shall make Expansion Space available no later than January 1, 2008 and through the remainder of the Term of this Sublease. Upon the date that Sublessee begins occupation, or January 1, 2008, whichever occurs first, Sublessee shall pay at the rental rate (with appropriate escalation) established in Section 1.7 or (if a renewal is executed) Section 3.2.

Sublessee, with written notice provided to Sublessor prior to January 1, 2007, shall be entitled to occupy additional space, located on the fifth floor, 5,262 RSF, under the terms



of this Sublease ("**Renewal Expansion Space**") as graphically shown on **Exhibit F**. Upon notification, Sublessor shall make Renewal Expansion Space available no later than July 1, 2007 and through the remainder of the Term of this Sublease. Upon the date that Sublessee begins occupation, or July 1, 2007, whichever occurs first, Sublessee shall pay at the rental rate (with appropriate escalation) established in Section 1.7 or (if a renewal is executed) Section 3.2.

For the purposes of the terms of this Sublease, all space included as Expansion Space or Renewal Expansion Space shall also be considered Premises when occupied or possessed by Sublessee.

D. Section 1.10 of the Sublease is hereby amended to add the following at the end of the existing Section 1.10:

"Should Sublessee exercise its option to secure the Renewal Expansion Space in accordance with the provisions of Section 1.9 of this Sublease, Sublessor shall provide tenant improvements in the Renewal Expansion Space in accordance with the work listed in the "Preliminary Construction Budget" (attached as Exhibit 2). These improvements shall be made at Sublessor's initial expense, but using the same mechanism for landlord's recapture of tenant improvements costs over five years as described above in this Section 1.10 and applied to the Base Rent provided in Section 1.7 (or Section 3.2 if for a Renewal Term). The "**Renewal Expansion Allowance**" for tenant improvements in the Renewal Expansion Space is \$45 per useable square foot or \$211,410. The tenant improvements are the property of the Sublessor, subject to the terms of the Sublease. In the event Sublessee does not exercise its First Renewal Term and the term of this Amendment is less than the five years anticipated for the recapture of those tenant improvement costs exceeding the "**Renewal Expansion Allowance**", Sublessee shall pay to Sublessor (as a lump sum) all of the unpaid portion of those tenant improvement costs that exceeded the Renewal Expansion Allowance. The remaining unpaid share of tenant improvement costs exceeding the Renewal Expansion Allowance at the time of lease termination shall be paid in full to Sublessor by July 31, 2010. In the event Sublessee exercises its First Renewal Term, the Base Rent for the "Renewal Expansion Space" will be adjusted to the rates established in Section 3.2, after the tenant improvement costs have been recaptured by Sublessor at the end of the five year term indicated above."

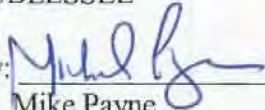
E. Section 5.10 of the Sublease is hereby amended to add the following at the end of the existing Section 5.10:

"In the event the Expansion Space and Renewal Expansion Space are occupied by Sublessee, Sublessee's share of building operating expenses shall be 30.20% and the method for determining the Adjustment Amount (for rent) shall be in accordance with this Section 5.10."

F. If there is any conflict between the terms and provisions of this Amendment and the terms and provisions of the Sublease, the terms and provisions of this Amendment shall govern. Except as specifically set forth herein, all other provisions of the Sublease shall remain in full force and effect and be binding upon the Parties in accordance with the terms therein.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date(s) set forth below.

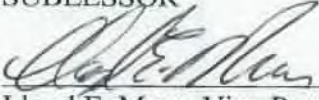
SUBLESSEE

By:   
Mike Payne

Its: Regional Operations Chief Financial Officer

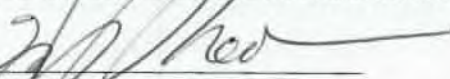
11/29/06  
Date

SUBLESSOR

  
Lloyd E. Mues, Vice-President  
Finance & Administration

12 Dec 06  
Date

IDAHO STATE BUILDING AUTHORITY CONSENT

By: 

Its: Executive Director

Date: 4/20/07



Exhibit 1  
(First Amendment to Sublease)

## SUBLEASE

This Sublease ("**Sublease**") dated December 21, 2004 for reference only and will be effective as of the date of the latest signature as indicated below, between the **Regents of the University of Idaho**, a state educational institution and a corporate body organized and existing under the Constitution and laws of the State of Idaho ("**Sublessor**") and **CH2MHill, Inc.**, a Florida Corporation ("**Sublessee**").

### 1 BASIC PROVISIONS.

The following basic provisions are a part of this Sublease:

**1.1 Sublessor.** The Board of Regents of the University of Idaho is the "**Sublessor**" whose current mailing address is Vice President for Finance and Administration, Moscow ID 83844-3168.

**1.2 Sublessee.** CH2MHill is the "**Sublessee**" whose current mailing address is CH2MHill, Attention: Real Estate, 9191 S Jamaica St, Englewood CO 80112.

**1.3 Underlying Lease.** This Sublease is subordinate to and subject to the terms and conditions of the Facilities Lease (Idaho Water Center) ("**Lease**") dated December 17, 2002, said Lease being entered into by and between the Idaho State Building Authority and the State of Idaho, as shown on attached **Exhibit A**. Sublessor shall seek any and all consents required to sublease as required by said Lease. Sublease shall not become effective unless and until written consent is provided by the Idaho State Building Authority. Such consent shall be evidenced only by the Idaho State Building Authority providing a non-disturbance agreement to Sublessee; guaranteeing (within the limits of that agreement) that in the event Sublessor terminates the Lease, the obligations and benefits of the Sublessor shall be assigned to the Idaho State Building Authority.

**1.4 Premises.** The "**Premises**" are located within the Idaho Water Center, 322 E Front St, Boise ID and comprise 46,284 rentable square feet as shown on the attached **Exhibit B**. Should Sublessee occupy expansion space as provided in Section 1.9 of this Sublease, expansion space shall be considered as a part of Premises.

**1.5 Permitted Use.** The use of the Premises permitted under this Sublease shall be limited to general office uses for Sublessee, except as may otherwise be authorized in writing by Sublessor ("**Permitted Use**").

**1.6 Term and Commencement Date.** This Sublease shall commence on June 24, 2005 (the "**Commencement Date**") and shall end on June 30, 2010 ("**Term**"). Sublessor will make reasonable efforts to provide Sublessee access to Premises for purposes of allowing installation of Sublessee's system furniture two weeks prior to Commencement Date.

**1.7 Base Rent.** Effective July 1, 2005, Sublessee shall pay annual rent ("**Base Rent**"), at a rate of \$19.50 per rentable square foot per year for the first year of the Term. Base Rent shall be escalated 3% for each subsequent year of the Term. The Base Rent for the Term is inclusive of Sublessee's share of service and operating expenses as listed in **Exhibit C** subject to operating expense adjustment as described in Section 5.10 of this Sublease.

**1.8 Parking.** Sublessee is responsible for acquiring any parking permits Sublessee requires to utilize available "public parking facilities" as defined and described in the Parking Access Agreement

SUBLEASE - 1  
Regents University of Idaho/CH2M Hill



attached as **Exhibit D**. Sublessor shall make reasonable efforts to negotiate reduced parking permit fees on behalf of Sublessee and other occupants of the Idaho Water Center. Sublessor understands that sufficient parking is available in the "Corridor Site" (as such term is defined in **Exhibit D**) to accommodate the parking expectations associated with Sublessee's use of the Premises. In the event adequate parking is not available in the "Corridor Site", Sublessor shall diligently pursue such actions as may facilitate parking availability to Sublessee reasonable proximity to Premises. Sublessor's efforts in this regard may include: Sublessor's participation in agreements with various private and public parking operators, acquiring parking rights on behalf of Sublessee when a mechanism for reimbursement to Sublessor is provided, or taking other reasonable actions deemed necessary to accommodate Sublessee's reasonable parking expectations.

**1.9 Expansion Space.** Sublessee, with written notice provided to Sublessor prior to July 1, 2007, shall be entitled to occupy additional space under the terms of this Sublease ("**Expansion Space**") as graphically shown on **Exhibit E**. Upon notification, Sublessor shall make Expansion Space available no later than January 1, 2008 and through the remainder of the Term of this Sublease. Upon the date that Sublessee begins occupation, or January 1, 2008, whichever occurs first, Sublessee shall pay at the rental rate (with appropriate escalation) established in Section 1.7 or (if a renewal is executed) Section 3.2. Should Sublessee extend this Sublease as provided by Section 3.2 of this Sublease, Sublessee shall be entitled to occupy additional space under the terms of this Sublease ("**Renewal Expansion Space**") as graphically shown in **Exhibit F** or as otherwise agreed to in writing by both parties. To secure the Renewal Expansion Space, Sublessee shall notify Sublessor of its intent to occupy along with its notice to take the renewal term provided in Section 3.2. Sublessee shall pay at the rental rate established in Section 3.2 for the first renewal term. For the purposes of the terms of this Sublease, all space included as Expansion Space or Renewal Expansion Space shall be also be considered Premises when occupied or possessed by Sublessee.

**1.10 Tenant Improvements.** Prior to June 24, 2005, Sublessor, at Sublessor's expense, shall substantially complete space plans, architectural drawings, and tenant improvements in accordance with the plans and drawings shown in **Exhibit G** and subject to Section 5.4 of this Sublease. In addition to the costs specified in **Exhibit G**, the allowance shall include expenses for cabling and moving. Sublessor shall provide Sublessee final plans and construction drawings by January 21, 2005. Sublessee shall provide written approval to Sublessor of those final plans and construction drawings to be used for construction hard bids for Tenant Improvements no later than January 28, 2005. Sublessee hereby acknowledges that Sublessee's failure to approve final plans by January 28, 2005 or Sublessee's request for subsequent modifications to the space plans, architectural drawings, tenant improvements after January 28, 2005, will relieve Sublessor of its obligation to meet the June 24, 2005 deadline herein. Sublessor and Sublessee shall at all times make every reasonable effort to ensure completion of tenant improvements in a timely manner. Sublessor shall provide a tenant improvement allowance of \$1,859,625 (based on \$45 per useable square foot for 41,325 useable square feet) ("**Allowance**") to be used for the improvement of the Premises as specified in **Exhibit G**. If the Allowance is more than the hard bid accepted by the Sublessor and Sublessee for actual tenant improvement costs, then the difference between the Allowance and the accepted hard bid ("**Adjusted Allowance Amount**") shall be deducted from the Base Rent to ensure that Sublessee is, over the Term, reimbursed for the Adjusted Allowance Amount. The Adjusted Allowance Amount shall be reimbursed to Sublessee in the form of a reduction to Base Rent over the Term of the Sublease based upon the following calculations: The total accepted hard bid shall be compared to the Allowance (\$1,859,625). In the event the accepted hard bid is less than the Allowance, the Adjusted Allowance Amount shall be divided by the number of years of the Term and then divided by the rentable square feet of the Premises and the resulting amount shall be deducted from the Base Rent provided and escalated in Section 1.7 of this Sublease. For example, if the accepted hard bid is \$1,735,650 then the Adjusted Allowance Amount is \$123,975 (the difference between \$1,859,625 and \$1,735,650) and then the Adjusted Allowance Amount is divided by the number of years of the Term (\$123,975 divided by five equals \$24,795) and that annualized Adjustment



Allowance Amount is then divided by the rentable square feet of the Premises (\$24,795 divided by 46,284 equals \$0.54). Fifty-four cents is then subtracted from the Base Rent to equal the adjusted Base Rent (\$19.50 minus \$0.54 equals the adjusted Base Rent of \$18.96). Under no circumstances shall the adjustments to rent provided under this Section result in Base Rent that is Less than \$18 per rentable square foot per year. If Sublessor and Sublessee are unable to secure a hard bid that is at or below the Allowance, Sublessor shall submit the excessive hard bid to Sublessee and Sublessee (at its sole discretion) may commit, in writing within ten days of submission to Sublessor, Sublessee's intention to pay for any amount in excess of the Allowance. Should Sublessee agree to pay these excess costs, Sublessee may pay the excess amount in a single, up-front payment to Sublessor or Sublessee may reimburse the excess costs to Sublessor in the form of an increase in Base Rent over the Term of the Sublease based upon the following calculations: The total accepted hard bid shall be compared to the Allowance (\$1,859,625). If the accepted hard bid is more than the Allowance, the Adjusted Allowance Amount shall be divided by the number of years of the Term and then divided by the rentable square feet of the Premises and the resulting amount shall be *added* to the Base Rent provided and escalated in Section 1.7 of this Sublease. For example, if the accepted hard bid is \$1,900,950 then the Adjusted Allowance Amount is \$41,325 (the difference between \$1,900,950 and \$1,859,625) and then the Adjusted Allowance Amount is divided by the number of years of the Term (\$41,325 divided by five equals \$8265) and that annualized Adjustment Allowance Amount is then divided by the rentable square feet of the Premises (\$8265 divided by 46,284 equals \$0.18). Eighteen cents is then added to the Base Rent to equal the adjusted Base Rent (\$19.50 plus \$0.18 equals the adjusted Base Rent of \$19.68). In the event Sublessee does not provide such notice within ten days or otherwise indicate to Sublessor that it is not willing to pay for those improvements in excess of the Allowance, then Sublessor shall be permitted to take those cost-cutting measures necessary to ensure that the Allowance provided by this Sublease is not exceeded. Such cost-cutting (i.e. value engineering) will be done in consultation with the Sublessee, though final discretion in such measures shall be subject to Sublessor's intention not to exceed the Allowance. Should Sublessee exercise its option to secure the Expansion Space in accordance with the provisions of Section 1.9 of this Sublease, Sublessor shall provide tenant improvements in the Expansion Space at a level of quality reasonably consistent with those provided for the original Premises. These improvements shall be made at Sublessor's initial expense, but using the same mechanism for landlord's recapture of tenant improvements costs as described above in this Section 1.10 and applied to the Base Rent provided in Section 1.7 (or Section 3.2 if for the Renewal Expansion Space). The tenant improvements specified in Exhibit G are the property of the Sublessor, subject to the terms of the Sublease.

**1.11 Contraction Space.** Sublessee, with six months written notice to Sublessor may terminate its lease for the space graphically shown in Exhibit H. Base Rent and any proportionate escalation for the month subsequent to contraction shall be adjusted to reflect the reduced Premises.

**1.12 Storage Space.** Sublessor shall make reasonable efforts to provide Sublessee up to 100 useable sq ft of storage space in the basement of the Idaho Water Center. Such space shall be provided on a month-to-month basis and at a rate of \$6 per rentable square feet (based upon a load factor of 1.12). Any construction expenses required to make this space useable for the purposes of Sublessee storage, shall be completed at Sublessee's expense and subject to Sublessor's reasonable approval and the terms of the Lease (Exhibit A).

## **2 GRANT OF PREMISES AND POSSESSION.**

**2.1 Grant of Premises.** Sublessor subleases to Sublessee and Sublessee subleases from Sublessor the Premises subject to the terms and conditions of this Sublease.

**2.2 Possession.** Sublessor shall deliver possession of the Premises (including the rights, privileges, benefits, rights-of-way and easements now or in the future appurtenant to the Premises) to



Sublessee on the Commencement Date. During the Term, Sublessor covenants on behalf of itself and its respective successors and assigns to provide quiet and peaceable possession of the Premises to Sublessee subject to the provisions of this Sublease and the Lease referenced in Section 1.3. Sublessor warrants, to the best of its knowledge that the project is in compliance with the Americans with Disabilities Act as it existed at the effective date of this Sublease, and that Sublessee shall not be responsible for costs to bring the common areas of the building into compliance with the Americans with Disabilities Act.

**2.3 Access.** Sublessee shall have access to Premises and operating elevators twenty-four hours per day, 365 days per year. Sublessee shall have non-exclusive use of any common areas convenient to access or support the use of Premises (including but not limited to bathrooms, service areas, building lobby, hallways, stairways).

**2.4 Limited Classroom Availability.** Sublessor shall provide Sublessee the opportunity to schedule use of a classroom on the first floor of the Idaho Water Center, from time to time and subject to availability at no additional cost to Sublessee. Such use pursuant to the terms of this section shall not exceed forty hours per year.

### **3 TERM.**

**3.1 Term.** This Lease shall commence on June 24, 2005 and shall end on June 30, 2010.

**3.2 Renewal.** Sublessee, with written notice provided to Sublessor prior to January 1, 2010, shall be entitled to extend this Sublease from July 1, 2010 through June 30, 2013 ("**First Renewal Term**"). For the First Renewal Term, Sublessee shall pay \$21.00 per rentable square foot per year for the first year of the First Renewal Term as Base Rent. In the event Sublessee still occupies Premises at the time of required notification, Sublessee, with written notice provided to Sublessor prior to January 1, 2013, shall be entitled to extend its lease from July 1, 2013 through June 30, 2016 ("**Second Renewal Term**"). For the Second Renewal Term, Sublessee shall pay ninety-five percent (95%) of the then current market value (or any other amount mutually agreed upon in writing by both parties) for the first year of the Second Renewal Term. Base Rent for the First and Second Renewal Term shall be escalated 3% for each subsequent year of the First and Second Renewal Term. Extension of lease terms beyond June 30, 2016 shall require the mutual agreement and renegotiation of terms of any additional Sublease term.

### **4 RENT.**

**4.1 Definition of Rent.** The word "**Rent**" includes the amount identified in Section 1.7 and other costs, if any, assigned to the Sublessee by this Sublease.

**4.2 Payment of Rent.** Sublessee agrees to pay Sublessor, without offset or deduction for any reason, the Rent for the Premises as and when provided herein.

**4.3 Date and Form of Rent Payments.** Rent for the first month shall be paid on or before the Commencement Date and on or before the first day of each subsequent month for the duration of the Term, First Renewal Term, and Second Renewal Term, unless otherwise expressly agreed in writing by both parties. Payment to Sublessor shall be made payable to "Bursar, University of Idaho", and mailed to the attention of "Administrative Affairs, University of Idaho, Moscow ID 83844-3168" or such different address or person as Sublessor shall provide to Sublessee by written notice.



**4.4 Partial Payments.** Acceptance by Sublessor of any partial payment of Rent shall not constitute a waiver of the obligation of the Sublessee to pay the full amount of the Rent payment then due.

## **5 OPERATION OF PREMISES.**

**5.1 Sublessee's Use of Premises.** The Premises shall be occupied and used by Sublessee only for the Permitted Use and for no other purpose. Sublessee will not commit waste on the Premises, nor will it disfigure or deface any part of the building, grounds, or any other part or portion of the Premises, including fixtures. Sublessee further covenants that it will return the Premises at the expiration of this Sublease to Sublessor in the same condition as originally received, reasonable wear and tear excepted.

**5.2 Sublessor's and Sublessee's Obligations.** Sublessor shall provide custodial, maintenance, and other services as shown on Exhibit C. Sublessor or Sublessor's contractor will perform all maintenance and repairs to the Premises. Any repairs or other work necessitated by the intentional conduct or omission of either party by its employees, agents, guests and invitees shall be paid exclusively by the party causing such repair or other work. Sublessee shall comply with all building rules and regulations as shown on Exhibit I. Sublessor shall notify Sublessee of any changes to these building rules and regulations made during the Term.

**5.3 Utilities.** Sublessor shall be responsible for and shall promptly pay all charges, when due, for water, natural gas, electricity, and any other utility or other service (excluding phone, cable television, and internet services used by Sublessee) used upon or furnished to the Premises. Sublessor shall provide HVAC on Monday through Saturday from 7:30 am to 10:00 pm. Should Sublessee require HVAC service outside the hours listed above, Sublessee shall pay at a rate consistent with the cost of providing the extra HVAC service. Unless failure or interruption of services is caused by the intentional act or omission of the Sublessor, Sublessor shall not be liable in damages or otherwise for any failure or interruption of (i) any utility service being furnished to the Premises, or (ii) the heating, ventilating and air conditioning system. No such failure or interruption, whether resulting from a casualty or otherwise, shall entitle Sublessee to terminate this Sublease or to abate the payments Sublessee is required to make under this Sublease, unless such failure or interruption is caused by the intentional act or omission of the Sublessor. For the purposes of this section "intentional act" shall not include events of failure or interruption required due to emergency or repair needs as reasonably determined by the Sublessor or proper building management authority. To the extent any interruption can be scheduled or otherwise anticipated, Sublessor shall provide Sublessee with no less than twenty-four hour notice prior to such interruption.

**5.4 Signs.** No permanent signs (except such signs as are described on Exhibit G) shall be affixed to the Premises, or installed, replaced or improved by Sublessee without Sublessor's prior written consent, which consent may not be unreasonably withheld, delayed or conditioned. All such installation, replacement, improvement or maintenance of signs shall be at Sublessee's sole expense (except to the extent such signs are described in Exhibit G). All signs placed or maintained on the Premises (including those shown in Exhibit G) are subject to and shall comply with all rules, applicable ordinances and public regulations (including standards and requirements established by the Civic Plaza Condominium Declaration). Subject to the specific consent described above, it is the Sublessor's intent to approve the size of such exterior building signage in approximate proportion to Sublessee's share of occupancy of the building.

**5.5 Modification to Premises by Sublessee.** Sublessee shall neither make nor undertake any modification or improvement to the Premises unless and except Sublessor has given its prior written



consent, which consent may not be unreasonably withheld, delayed or conditioned. In all events, such modification of the Premises shall comply with all of the following requirements:

(a) Sublessee shall supply Sublessor with a complete set of construction drawings for Sublessor's review and approval at least thirty (30) days prior to Sublessee's proposed commencement of any construction work; and

(b) Sublessee may perform construction as provided by Section 5.5 or Sublessee shall retain a licensed and bonded contractor, approved in writing by Sublessor, to perform any construction work (for alterations, repair of fire or casualty, or other construction). The contractor shall carry public liability and property damage insurance, standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, during the period of construction.

**5.6 Hazardous Material Use.** Sublessee and Sublessor shall not cause or permit any Hazardous Material to be brought upon, kept, used, disposed, or discharged, in, on, from or about the Premises by their agents, employees, contractors, customers, clients, guests or invitees except as incidental to Sublessee's permitted use of the Premises, and only in quantities that are less than the quantities that are required to be reported to governmental or other authorities under applicable law or regulations. Sublessor shall comply with all applicable laws and regulations regulating the use, reporting, storage, discharge and disposal of Hazardous Material. As used in the Sublease, the term "**Hazardous Material**" means any hazardous or toxic substance, material or waste that is or becomes regulated by any federal, state or local governmental authority or political subdivision. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under applicable law, (ii) petroleum, (iii) asbestos, (iv) polychlorinated biphenyl ("PCB"), (v) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321), (vi) defined as a "hazardous waste" pursuant to Section 1004 of the Solid Waste Disposal Act (42 U.S.C. §6903), (vii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601), (viii) defined as a "regulated substance" pursuant to Section 9001 of the Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. §6991, (ix) considered a "hazardous chemical substance and mixture" pursuant to Section 6 of the Toxic Substance Control Act (15 U.S.C. § 2605), or (x) defined as a "pesticide" pursuant to Section 2 of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136).

## **5.7 Real and Personal Property Taxes.**

**5.7.1 Payment of Taxes.** Should any real property taxes be levied as a result of the Sublessee's (or permitted sub-tenant's) use of the Premises, Sublessor shall apply its rental income from this Sublease against any such property taxes. Sublessee shall be responsible for payment of any personal property taxes levied against the Sublessee's or its sub-tenant's personal property.

**5.7.2 Tax on Rent.** Should any government impose a tax, assessment, gross receipts tax, transaction tax, privilege tax, sales tax or similar tax (other than an income or franchise tax) on the Rent, including taxes on any utility services, such taxes and assessments shall be paid by Sublessee.

**5.8 Covenant Against Liens.** Sublessee will not directly or indirectly create or cause to be created or to remain, and will promptly discharge, at Sublessee's sole expense, any mechanics' lien or similar lien against the Premises which is created or caused to be created by Sublessee's work on the Premises. Sublessee has no authority or power to cause or permit any mechanics' lien or similar lien created by act of Sublessee, operation of laws, or otherwise to attach to or be placed upon Sublessor's title or interest in the Premises. Any lien against the Sublessee shall attach only to Sublessee's leasehold interest in the Premises. Sublessee may contest, at Sublessee's sole expense, any lien, and the lien may



remain pending resolution of the challenge. Sublessee shall indemnify and hold Sublessor harmless from any and all loss, damage or expense occasioned by the lien and shall provide such security as Sublessor may reasonably demand. If the lien is adjudged to be valid, Sublessee shall promptly pay and discharge the lien.

**5.9 Sublessor's Right of Entry.** Sublessor shall be entitled to enter the Premises in a manner that does not unreasonably interfere with Sublessee's permitted use of the Premises.

**5.10 Operating Expense Adjustments.** Operating expenses are included in the Base Rent amount for the first year of the Term ("**Base Year**"). The components of building operating expenses for such base year are shown in **Exhibit C** and shall at no time include capital costs. Total building operating expenses (based on full building occupancy) for Base Year ("**Base Year Operating Expense**") will be established in accordance with generally accepted accounting principles not later than March 1, 2006. Sublessee's share of building operating expenses is 25.83% (this amount is higher than the Premises rentable square footage reported in Section 1.4, but is the agreed upon percentage of the building used for calculating operating expense allocation). If during any year subsequent to Base Year the actual operating expenses for any year are greater than the Base Year Operating Expense, Sublessee shall pay its pro-rata share of the increase in actual operating expenses for each year of the term in which such actual costs exceed Base Year Operating Expense. If the operating expenses of any year are less than the prior year, Sublessee shall be credited with its pro-rata share of such decrease in actual operating expenses. However, in no event shall the Sublessee pay less than its pro-rata share of the Base Year Operating Expense. The difference between Base Year Operating Expense and any year's actual operating expense shall be assessed or credited to Sublessee to ensure that Sublessee pays no less and no more than the Premises pro-rata share of actual operating expenses for each year of the Term ("**Adjustment Amount**"). The Adjustment Amount shall be considered Rent and included in each subsequent year's Rent payment. The Base Year and methodology described above shall be used to adjust operating expense payment through the First and Second Renewal Terms (if any). In the last year of the Sublease Term or First or Second Renewal Terms, the Adjustment Amount shall be paid to Sublessor upon billing by Sublessor. Expense information to support the determination of actual operating expenses for each year, including Base Year, shall be provided by Sublessor within a reasonable time upon request by Sublessee. Sublessee shall have the right to audit such operating expenses, and if such audit should prove an error of more than \$1,000 for any year, such error shall be adjusted between the parties and, if the error causes an increase in operating expenses, Sublessee shall pay its pro-rata share of such increase to Sublessor. If the error causes a decrease in operating expenses, Sublessor shall credit the Sublessee its pro rata share of such decrease.

## **6 CHANGES IN THE PARTIES.**

**6.1 Relationship of Parties.** Nothing contained in this Sublease shall be construed as creating the relationship of principal or agent, partnership or joint venture. Neither the method of computation of Rent nor any other provision of this Lease, nor any act of the parties, shall be deemed to create any relationship other than that of sublessor and sublessee.

**6.2 Successors and Assigns.** This Sublease shall benefit and bind the successors and permitted assigns of the parties.

**6.3 Sublessee Assignment and Sub-Sublease of Premises.** Sublessee may not assign or sublet all or a part of this Sublease unless Sublessee first obtains the written consent of Sublessor, which consent shall not be unreasonably withheld, delayed or conditioned. Approval of assignment and sub-sublease shall be subject to the provisions of the Lease and other legally recorded covenants or restrictions placed on the Premises. Any losses sustained from such sub-sublease shall accrue to the Sublessee and any profits shall be equally split between Sublessee and Sublessor after the costs of such



subletting are deducted from the profits. Sublessor shall have the right to audit Sublessee's records in regards to collection of revenue from such sub-sublease.

**6.4 Sublessor's Transfer.** Sublessor may sell, assign or otherwise transfer the Premises. If Sublessor should sell, transfer, or terminate Sublessor's interest in the Premises, then effective with the date of the sale, transfer, or termination, Sublessor shall be released and discharged from any and all further obligations and responsibilities under this Sublease (except those already accrued) upon written assumption by the buyer or transferee of Sublessor's liabilities under this Sublease.

**6.5 Attornment.** Sublessee shall attorn to, and recognize as successor Sublessor under this Sublease, any person that purchases or obtains title to the Premises or to Sublessor's leasehold pursuant to a conveyance by Sublessor.

**6.6 Subordination.** Subject to the non-disturbance agreement referenced in Section 1.3 of this Sublease, Sublessee agrees that this Sublease is and shall remain subordinate to the Lease and any subsequent mortgage or deed of trust encumbering the Premises, together with any renewals, modifications or extensions of subsequent mortgages or deeds of trust. This subordination is self-operative without the need for any further document or instrument. Upon Sublessor's request, Sublessee shall execute reasonable instruments that are reasonably required to subordinate this Sublease to mortgages or deeds of trust made by Sublessor or the Idaho State Building Authority.

**6.7 Estoppel Certificate.** From time to time upon not less than fifteen (15) business days prior written request by a party, the other party will deliver to the requesting party a certificate in writing stating, if accurate (i) that this Sublease is unmodified and in full force and effect (or that the Sublease as modified is in full force and effect, describing the modifications), (ii) that the rents and other charges have been paid to date, and (iii) that the requesting party is not in default under any provision under this Sublease (or, if in default, the nature of the default). If the party shall fail to respond within thirty (30) business days of receipt the written request for the estoppel certificate, the party shall be deemed to have given the certificate without modification.

## **7 LOSS AND DAMAGE TO PREMISES.**

**7.1 Sublessee's Possession at Own Risk.** Sublessee covenants and agrees that neither Sublessor nor its agents shall be liable in any way for personal injuries or property damages sustained by Sublessee, its employees, visitors, or by any occupant of the subleased Premises, or by any other persons or organizations claiming through Sublessee, resulting from the condition, state of repair, or use of the subleased Premises, or any part thereof, or of any equipment therein or appurtenances thereto, or resulting from any act or negligence of Sublessee or of any other person or persons excepting the Sublessor or its agent. Neither Sublessor nor its agents shall be liable for damage to Sublessee's personal property or for any loss suffered by Sublessee caused in any manner whatsoever, except when Sublessor or its agents willfully or negligently causes such damage or loss.

**7.2 Insurance.** As provided by the underlying Lease, the State of Idaho maintains an insurance policy (or policies) insuring the Premises.

**7.3 Sublessee's Insurance.** No insurance is provided by Sublessor for Sublessee's personal property. Sublessee shall insure and be solely responsible for insurance coverage on personal property, of every kind or nature, which is not part of the Premises or owned by Sublessor. Sublessee shall, at Sublessee's sole cost and expense, either obtain the insurance Sublessee deems advisable, or shall be deemed to be self-insured. Sublessee waives all rights on insurance purchased by the Sublessor (if any).



**7.4 Waiver of Subrogation.** To the extent permitted by their respective insurers, Sublessor and Sublessee (and each person claiming an interest in the Premises through Sublessor or Sublessee) release and waive their entire right of recovery against the other for direct, incidental or consequential or other loss or damage arising out of, or incident to, the perils covered by property insurance carried by each party, whether due to the negligence of Sublessor or Sublessee. If necessary, all insurance policies may be endorsed to evidence this waiver.

**7.5 Effect of One Party's Actions on Other Party's Insurance.** Neither party shall do or permit to be done anything that shall invalidate any insurance carried by the other party.

**7.6 Condemnation.** Subject to the provisions of Section 10.1 of the Lease (as defined in Section 1.3 of this Sublease), if any material portion of the Premises is permanently condemned or taken under any governmental law, ordinance or regulation, by right of eminent domain, or by deed in lieu, then either party may, at its sole option and upon written notice to the other given within fourteen (14) days following the date the condemning authority takes title or possession, whichever comes first ("date of taking"), terminate this Sublease effective on the date of taking. For purposes of this Section 7.6, a "material" portion of the building means such portion of the building as would render the remaining portion of the building insufficient for Sublessee's continuing needs. Upon receipt of notice of any proposed condemnation, the receiving party shall promptly notify the other party. Sublessor may reserve all rights to damages to the Premises for any taking or condemnation of all or any portion of the Premises.

**7.7 Damage or Destruction of Premises.** In the event of damage to or destruction of the improvements to the Premises by fire or other casualty, except for damage caused by the negligence or willful act or omission of Sublessee, and subject to the terms of the underlying Lease, the Sublessor may at its option either (a) promptly repair such damage or cause such damage to be repaired, in which event the Sublease shall continue in full force and effect, or (b) terminate the Sublease as of the date of such damage, by giving Sublessee written notice thereof within thirty (30) days of the damage. In the event the damage is caused by the negligence or willful act or omission of the Sublessee, Sublessee shall be obligated to provide insurance proceeds to the extent such proceeds are available to repair, restore or rebuild and Sublessee shall deliver all insurance proceeds and/or assign any causes of action it may possess against any person or entity to Sublessor. If Sublessor elects to proceed under subsection (a) above, during the period of damage, distribution, repair, restoration or rebuilding, this Sublease shall remain in effect; and there shall be no abatement of rent provided, however, Sublessee shall be entitled to recoup any loss of use over the twelve (12) months following restoration of the Premises.

## **8 DEFAULT BY SUBLESSEE OR SUBLESSOR.**

**8.1 Default by Sublessee.** Sublessee shall be in default under this Sublease if any of the following occur: (i) Sublessee fails to pay when due any Rent or other payment required to be paid by Lessee under this Sublease; (ii) Sublessee fails to perform or observe any other covenant, agreement or condition which Sublessee is required to perform or observe and the failure shall not be cured within thirty (30) calendar days after delivery of written notice to Sublessee of the failure (or, if the cure cannot be effected within the thirty day period, then within the additional period of time as may be required to cure the default provided Sublessee is diligently and continuously pursuing the cure to completion); (iii) Sublessee is named as a debtor in any voluntary or involuntary bankruptcy proceeding; (iv) substantially all of Sublessee's assets are placed in receivership or are subjected to attachment or other judiciary seizure; (v) Sublessee makes or suffers a general assignment for the benefit of creditors; or (vi) Sublessee vacates all or a substantial portion of the Premises and also ceases payment of rent for any portion of the Premises.

**8.2 Remedies of Sublessor.** In the event of Sublessee's default as set forth in Section 8.1, Sublessor shall have the remedies set forth in this Sublease by the giving of prior written notice to



Sublessee at any time during the continuance of the event of default. Sublessor's remedies are cumulative and not alternative remedies.

**8.2.1 Legal and Equitable Remedies.** Sublessor and Sublessee shall have all remedies available at law or in equity.

**8.2.2 Termination of Sublease.** In the event of a Sublessee default, in addition to all other rights and remedies available to Sublessor in law and equity, Sublessor may (i) change the locks and lock the doors to the Premises and exclude Sublessee from the Premises, (ii) enter the Premises and remove all persons and personal property therefrom without being liable for prosecution or any claim for damages for the removal, (iii) declare the Sublease terminated, (iv) commence litigation for the Rent due and to become due under the Sublease, and for any damages sustained by Sublessor, (v) continue the Sublease in effect and re-let the Premises on such terms and conditions as Sublessor may deem advisable, and (vi) hold the Sublessee liable for the Rent, the reasonable cost of obtaining possession of the Premises, the reasonable cost of reletting the Premises (including attorney's fees, broker's commissions and tenant improvements), less the Rents actually received from the reletting, if any.

**8.2.3 Advance.** In the event of Sublessee's default, Sublessor may remedy the default for the account and at the expense of Sublessee. If Sublessor at any time, by reason of the default, is compelled to pay, or elects to pay, any money or do any act which will require the payment of any money, or is compelled to incur any expense, including reasonable attorneys' fees, in instituting or prosecuting any action or proceeding to enforce Sublessor's rights under this Sublease, the money paid by Sublessor, with interest from the date of payment, shall be additional rent and shall be due from Sublessee to Sublessor as Rent.

**8.2.4 Interest on Delinquent Sums.** Whenever any sum due under this Sublease is not paid when due, it shall bear interest thereafter at five percent (5%) per annum.

**8.3 Default by Sublessor.** Sublessor shall be in default under this Sublease if Sublessor fails to supply agreed to services or otherwise perform or observe any covenant, agreement or condition which Sublessor is required to perform or observe and the failure shall not be cured within thirty (30) calendar days after delivery of written notice to Sublessor by Sublessee of the failure (or, if the cure cannot be effected within the thirty-day period, then within the additional period of time as may be required to cure the default provided Sublessor is diligently and continuously pursuing the cure to completion).

**8.4 Remedies of Sublessee.** In the event of Sublessor's default as set forth in Section 8.3, Sublessee shall have all rights provided at law or in equity. Sublessee's obligation to pay Rent is independent of all other rights, and Sublessee may not withhold Rent from Sublessor or pay Rent to other parties or into any escrow or holding account because of the default or alleged default of Sublessor.

## **9 TERMINATION OF SUBLEASE.**

**9.1 Events of Termination.** This Sublease shall terminate upon the occurrence of one or more of the following events: (i) by mutual written agreement of Sublessor and Sublessee; (ii) by Sublessor pursuant to the express provisions of this Sublease; (iii) by Sublessee pursuant to the express provisions of this Sublease; (iv) upon expiration of the Term of this Sublease; (v) by reason of Section 7.6 or 7.7 relating to condemnation or destruction of the Premises.

**9.2 Surrender of Possession.** Upon termination of this Sublease, Sublessee will immediately surrender possession of the Premises to Sublessor. If possession is not immediately



surrendered, Sublessor may, in compliance with the laws of the State of Idaho, re-enter and repossess the Premises and remove all persons or property.

**9.3 Holding Over.** If Sublessee fails to deliver actual possession of the Premises to Sublessor upon termination of this Sublease, Sublessor shall have all remedies available at law or in equity to a lessor or sublessor of real property in the State of Idaho, plus the following remedies: (i) Sublessor may recover damages from Sublessee in an amount equal to (a) the Rent applicable immediately prior to termination for each full or partial month that Sublessee fails to deliver actual possession of the Premises to Sublessor, and (b) all damages sustained by Sublessor by reason of Sublessee's failure to deliver actual possession of the Premises to Sublessor (including attorney's fees); or (ii) Sublessor may accept Sublessee's failure to deliver actual possession of the Premises to Sublessor as an irrevocable offer by Sublessee to renew this Sublease for a month to month period and shall entitle Sublessor to 150% of the prepaid Base Rent for the period that Sublessee fails to deliver actual possession of the Premises to Sublessor.

**9.4 Condition of Premises Upon Termination.** Sublessee, upon termination or abandonment of this Sublease or termination of Sublessee's right of possession, agrees as follows:

**9.4.1 Removal of Property.** Except as permitted by this Sublease, Sublessee shall not remove any alterations, improvements or additions made to the Premises by Sublessee or others, without the prior written consent of Sublessor, which consent may be withheld for any reason or for no reason. Upon termination, or within seven days thereafter, Sublessee shall remove, in a good and workmanlike manner, all personal property (including system furniture which may be attached to Premises) of Sublessee. Sublessee shall promptly repair all damage occasioned by such removal in a good and workmanlike manner. If Sublessee fails to remove any property, Sublessor may (i) accept the title to the property without credit or compensation to Sublessee, or (ii) remove and store the property, at Sublessee's expense, in any reasonable manner that Sublessor may choose. Unless explicitly permitted by Sublessor in writing, Sublessee shall not remove any tenant improvements specified in Exhibit G from the Premises prior to, during, or after termination of this Sublease.

**9.4.2 Restoration of Premises.** Sublessee shall restore the Premises to a broom clean condition and in the condition existing on the Commencement Date, with the exception of (i) ordinary wear and tear, and (ii) alterations, improvements and additions which Sublessor approved in writing prior to installation and which Sublessor has not directed Sublessee in writing to remove. If Sublessee fails to properly restore the Premises, Sublessor, at Sublessee's expense, may restore the Premises in any reasonable manner that Sublessor may choose.

## **10 CLAIMS AND DISPUTES.**

**10.1 Rights and Remedies Cumulative.** Except where expressly provided otherwise in this Sublease, each party's rights and remedies described in this Sublease are cumulative and not alternative remedies.

**10.2 Non-waiver of Remedies.** A waiver of any condition stated in this Sublease shall not be implied by any neglect of a party to enforce any remedy available by reason of the failure to observe or perform the condition. A waiver by a party shall not affect any condition other than the one specified in the waiver and a waiver shall waive a specified condition only for the time and in the manner specifically stated in the waiver. The acceptance by Sublessor of rent or other money from Sublessee after termination of the Sublease, after termination of Sublessee's right of possession, after the occurrence of a default, or after institution of any remedy by Sublessor shall not alter, diminish, affect or waive the Sublease termination, termination of possession, default or remedy.



### **10.3 Indemnification.**

#### **10.3.1 By Sublessor.**

Subject to the limits of liability specified in Idaho Code 6-901 through 6-929, known as the *Idaho Tort Claims Act*, Sublessor agrees to indemnify and hold harmless Sublessee, its agents and assigns, from and against any and all claims, losses, damages, injuries, liabilities, and costs, including reasonable attorneys' fees, court costs and expenses and liabilities incurred in or from any such claim, arising as a direct result of Sublessor's possession, operations or performance under this Sublease and which are caused by the sole negligence of Sublessor, its agents and assigns. Sublessor shall promptly notify Sublessee of any such claims of which it has knowledge and shall cooperate fully with Sublessee or its representatives in the defense of the same. This indemnification does not apply when such claims, damages, costs, liabilities, and expenses are the result of negligence on the part of the Sublessee, its agents or assigns.

#### **10.3.2 By Sublessee.**

Sublessee agrees to indemnify and hold harmless Sublessor, its agents and assigns, from and against any and all claims, losses, damages, injuries, liabilities, and costs, including attorneys' fees, court costs and expenses and liabilities incurred in or from any such claim, arising as a direct result of Sublessee's possession, operations or performance under this Sublease and which are caused by the sole negligence of the Sublessee, its agents or assigns. Sublessee shall promptly notify the Sublessor of any such claims of which it has knowledge and shall cooperate fully with the Sublessor or its representatives in the defense of the same. This indemnification does not apply when such claims, damages, costs, liabilities, and expenses are the result of negligence on the part of the Sublessor, its agents or assigns.

### **10.4 Hazardous Material Indemnification**

#### **10.4.1 By Sublessor.**

During and after the Term of this Sublease, and subject to the limits of liability specified in Idaho Code 6-901 through 6-929, known as the *Idaho Tort Claims Act*, Sublessor shall indemnify and hold Sublessee harmless from any and all costs (including costs of remediation or clean-up and any proceedings related thereto), claims, judgments, damages, penalties, fines, liabilities or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or useable space or any amenity of the Premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Term as a result of Sublessor's breach of the obligations stated in Section 5.6 regarding Hazardous Material. This indemnification of Sublessee by Sublessor includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the preceding, if the presence of any Hazardous Material on the Premises caused or permitted by Sublessor results in any contamination of the Premises, Sublessor shall promptly take all actions at Sublessor's sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any Hazardous Material to the Premises.

#### **10.4.2 By Sublessee.**

During and after the Term of this Sublease, Sublessee shall indemnify and hold Sublessor harmless from any and all costs (including costs of remediation or clean-up and any proceedings related



thereto), claims, judgments, damages, penalties, fines, liabilities or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or useable space or any amenity of the Premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Term as a result of Sublessee's breach of the obligations stated in Section 5.6 regarding Hazardous Material. This indemnification of Sublessor by Sublessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the preceding, if the presence of any Hazardous Material on the Premises caused or permitted by Sublessee results in any contamination of the Premises, Sublessee shall promptly take all actions at Sublessee's sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any Hazardous Material to the Premises.

**10.5 Effect of Sublessor's Insurance on Sublessee's Obligation.** From time to time and without obligation to do so, Sublessor may purchase insurance against damage or liability arising out of or related to the Premises. The purchase or failure to purchase insurance shall not release or waive the obligations of Sublessee set forth in this Sublease. Sublessee waives all claims on insurance purchased by Sublessor. Sublessee's insurance shall be the primary insurance for claims which are the responsibility of the Sublessee as provided by this Sublease, notwithstanding Sublessor's purchase of any additional or supplemental insurance coverage.

**10.6 Dispute Resolution.** If the parties disagree regarding the performance of this Sublease, then the parties agree to engage in direct discussions to settle the dispute. If the disagreement cannot be settled by direct discussions, then the parties may agree to attempt to settle the disagreement in an amicable manner by mediation. Thereafter, any unresolved disagreement arising from or relating to this Sublease or a breach of this Sublease shall be resolved as provided by law. The provisions of this Section 10.6 shall not apply to disputes arising from Sublessee's default in the performance of any obligation to pay Rent.

**10.7 Attorney Fees and Costs.** If a party is in default under this Sublease, then the defaulting party shall pay to the other party reasonable attorney fees and costs (i) incurred by the other party after default and referral to an attorney and (ii) incurred by the prevailing party in any litigation (including any reasonable attorney fees on appeal).

**10.8 Interpretation.** The law of the State of Idaho shall govern this Sublease. The courts in the State of Idaho shall have exclusive jurisdiction. The invalidity of any portion of this Sublease shall not affect the validity of any other portion of this Sublease. This Sublease constitutes the entire, completely integrated agreement among the parties and supersedes all prior memoranda, correspondence, conversations and negotiations. Whenever the consent of either party is required to an action under this Sublease, consent shall not be unreasonably withheld or delayed, unless otherwise expressly provided.

## **11 GENERAL PROVISIONS.**

**11.1 Notices.** All notices of any kind and for any purpose under this Sublease shall be in writing and shall be deemed to be delivered on the date of delivery if delivered in person or by fax, or on the date of receipt if delivered by U.S. Mail or express courier. Proof of delivery shall be by affidavit of personal delivery, machine generated confirmation of fax transmission, or return receipt issued by U.S. Postal Service or express courier. Notices shall be addressed to the address set forth below:

SUBLEASE - 13  
Regents University of Idaho/CH2M Hill



**Sublessee:**

CH2MHill, Inc.  
 Attention: Real Estate  
 9191 S Jamaica St  
 Englewood CO 80112  
 Phone 720-286-2410  
 Fax 720-286-9193

**Sublessor:**

Regents of the University of Idaho  
 Vice President for Finance and Administration  
 PO Box 443168  
 Moscow ID 83844-3168  
 Phone (208) 885-6174  
 Fax (208) 885-5504

**11.2 Brokers.** Each party hereto represents and warrants to the other party that the representing party has no arrangement with any realtor, broker or agent in connection with the negotiations of this Sublease other than Collier's International and CH2M Hill Commercial Real Estate, CCR. Sublessor shall be required to pay 6% of the total Base Rent for such broker services as per separate agreement between Collier's International and Sublessor. Each party agrees to defend, indemnify and hold the other party harmless from any cost, expense or liability for any compensation, commission or charges claimed by any realtor, broker or agent other than those listed above arising out of the actions of the indemnifying party with respect to this Sublease.

**11.3 Non-recording.** This Sublease shall not be recorded. A Memorandum of Sublease executed by both parties hereto may be recorded.

**11.4 Time is of the Essence.** Time is of the essence with respect to the obligations to be performed under this Sublease.

**11.5 Equal Opportunity.** Each party agrees not to discriminate against any employee or applicant for employment in the performance of this Sublease, with respect to tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of race, sex, color, religion, national origin, disability, ancestry, or status as a Vietnam veteran. Breach of this covenant may be regarded as a material breach of this Sublease.

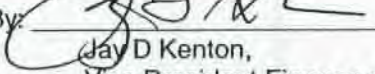
**11.6 Non-use of Names and Trademarks.** No party to this Sublease shall, without express written consent in each case, use any name, trade name, trademark, or other designation of any other party hereto (including contraction, abbreviation, or simulation) in advertising, publicity, promotional, or similar activities or context.

## 12 SIGNATURES.

Sublessor:

Regents of the University of Idaho

Dated: December 23, 2004

By:  12-23-04  
Jay D. Kenton,  
Vice President Finance and Administration

Sublessee:

CH2M Hill

Dated: \_\_\_\_\_, 2004

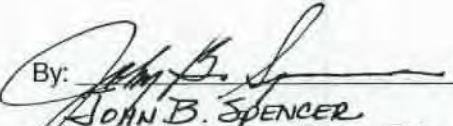
By:  12/28/04  
JOHN B. SPENCER  
DIRECTOR OF CORP. REAL ESTATE



Exhibit A  
December 21, 2004 Sublease  
UI/CHZMH:11

### FACILITIES LEASE (Idaho Water Center)

THIS FACILITIES LEASE is entered into and is effective as of the 17th day of December, 2002, between the IDAHO STATE BUILDING AUTHORITY (the "Authority"), as lessor, the STATE OF IDAHO (the "State") acting through the DEPARTMENT OF WATER RESOURCES ("IDWR"), the IDAHO WATER RESOURCE BOARD (the "Water Board"), the DEPARTMENT OF ADMINISTRATION ("DOA"), and THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO (the "University"), each of which are state bodies as defined in the Idaho State Building Authority Act, as lessee.

### RECITALS

A. The Authority was created by the Idaho State Building Authority Act, Title 67, chapter 64, Idaho Code (the "Act"), to finance, construct, and operate facilities for the purposes set forth in the Act; and

B. The Authority is empowered by the Act, among other powers, to acquire property; to enter into agreements with any agency, board, department or commission of the State of Idaho in furtherance of the purposes of the Act, including the acquisition, development, maintenance, operation, and financing of any facility; to provide for the construction, reconstruction, improvement, alteration, or repair of any facility or part thereof; and to lease such facilities to a state body as defined in the Act; and

C. In accordance with the provisions of Idaho Code, Section 67-6410(a), the Idaho Legislature, pursuant to House Concurrent Resolution No. 60, Second Regular Session of the Fifty-Sixth Legislature has authorized the University and IDWR as state bodies under the Act to enter into agreements with the Authority as may be reasonable and necessary for the purpose of providing financing and development of office, research and educational facilities for their use; and

D. The Water Board is a party to this Facilities Lease because of its power to contract on behalf of IDWR; and

E. The DOA is a party to this Facilities Lease pursuant to Section 67-5708, Idaho Code.

F. The Authority will enter into an agreement with Ada County, Idaho (the "County") providing for the Authority to acquire from the County that certain Civic Plaza Condominium Unit No. 101 ("Unit No. 101") under that certain Declaration of Covenants and Restrictions Establishing a Plan of Ownership For Civic Plaza Condominiums recorded on October 9, 2002 as Instrument No. 102116495 (the "Civic Plaza Condominium Declaration"), such Unit No. 101 constituting the site upon which the Authority will undertake the construction of a building known as the "Idaho Water Center;" and

G. The University will enter into a Parking Access Agreement (the "Parking Access Agreement"), with the Urban Renewal Agency of the City of Boise, also known as Capital City



Development Corporation ("CCDC") providing for parking access for the use of the State in certain public parking facilities operated and to be operated by CCDC.

H. The Authority will enter into a sublease agreement (the "Fleet Space Sublease") with CCDC providing for the lease of those certain Civic Plaza Condominium Unit Nos. 302A and 302B ("Unit Nos. 302A and 302B") under the Civic Plaza Condominium Declaration, such Units Nos. 302A and 302B constituting the site of secure fleet parking and related facilities.

I. The Authority intends to finance the cost of acquisition of the Facilities (as defined herein) and related costs by the issuance of bonds or other evidences of indebtedness as authorized by the Act; and

J. The State will lease the Facilities from the Authority to be used and occupied upon the terms and conditions set forth in this Facilities Lease.

NOW, THEREFORE, in consideration of the mutual promises, conditions, and covenants set forth herein, the parties agree:

## ARTICLE 1 FINDINGS AND DECLARATION

**Section 1.1 Findings.** The Authority has found and declared, in accordance with Section 67-6410(c), Idaho Code, that the Facilities will be of public use and will provide a public benefit to the people of the State of Idaho.

**Section 1.2 Declaration.** The parties agree and acknowledge that the Recitals contained in this Facilities Lease are true and are incorporated into this Facilities Lease as if set forth in full. This Facilities Lease shall constitute the agreement of the Authority to provide the Facilities as required by Section 67-6410(b), Idaho Code.

## ARTICLE 2 DEFINITIONS

The terms used herein shall have the following meanings:

A. **"Act"** shall mean Chapter 64, Title 67, Idaho Code, as it now exists and as it may hereafter be amended and supplemented.

B. **"Annual Rent"** shall mean, with respect to the initial term of this Facilities Lease and each renewal term thereof, the Basic Rent and Additional Rent determined in accordance with Article 6 hereof due and payable by the State to the Authority with respect to the Facilities for such lease term.

C. **"Authority"** shall mean the Idaho State Building Authority, an independent public body corporate and politic of the State of Idaho, created by and existing under the Act.

D. **"Bonds"** shall mean the portion of any bond or bonds, note or notes, or other evidences of indebtedness, including the State Building Revenue Bonds, Series 2003A (the "Series 2003A Bonds") and the State Building Revenue Bonds (Taxable) Series 2003B (the "Series 2003B Bonds") issued by the Authority for the purpose of financing the Cost of Acquisition and



Construction and bonds or notes issued to refinance all or any part thereof and any bonds or notes issued to finance any additions, modifications or replacements of the Facilities from time to time hereafter.

E. **"Bond Resolution"** shall mean the resolution or resolutions of the Authority, as amended and supplemented, authorizing the issuance of Bonds.

F. **"Civic Plaza Condominium Declaration"** shall mean the Declaration of Covenants and Restrictions Establishing a Plan of Ownership for Civic Plaza Condominiums recorded on October 9, 2002, as Instrument No. 102116495, records of Ada County, Idaho.

G. **"Code"** means the Internal Revenue Code of 1986, as amended, regulations thereunder and rulings and judicial decisions interpreting or construing the Code.

H. **"Cost of Acquisition and Construction"** shall mean any proper and reasonable cost, whether or not specifically mentioned herein, of acquisition, development and design and construction of the Facilities, including fixtures and machinery, apparatus and equipment; of engineering and architectural services, designs, plans, specifications and surveys; planning, analysis, project management, administration, inspection and similar services in connection with the Facilities; acquisition or lease of any land or interest therein for use in connection therewith; preparation of the sites thereof and of any land to be used in connection therewith; any indemnity and surety bonds and insurance premiums; allocable administrative and general expenses of the Authority; allocable portions of legal fees, audits, fees and expenses of any trustees, depositories and paying agents, financial advisors, underwriters and others for the Bonds; issuance of the Bonds, interest on and other financing charges, and fees and expenses of other advisors and consultants necessary or appropriate in connection therewith; the payment of any Bonds of the Authority (including any interest and redemption premiums) issued to temporarily finance the payment of any item or items of cost of the Facilities; expenses necessary or incidental to determining the feasibility or practicability of the Facilities; and all other reasonable expenses not specified herein as may be necessary or incidental to the development, design, construction and acquisition of the Facilities, the financing thereof, and the placing of the same in use and operation.

I. **"Facilities"** shall mean Unit No. 101, Unit Nos. 302A and 302B, and any limited common area related to such units further described in Exhibit A hereto and the building and facilities to be built on Unit No. 101 which Facilities shall be commonly known as the "Idaho Water Center," together with the parking and related facilities to be constructed on Unit Nos. 302A and 302B and all equipment, fixtures, improvements, appurtenances, and other facilities to be designed and constructed thereon or installed therein. This definition of Facilities is intended to refer at all times to the real and personal property interests leased by the Authority to the State hereunder. Accordingly, if at any time Option Space is acquired through the exercise of an option to purchase granted hereunder, such portion of the Facilities comprising the Option Space will thereupon cease to be included in the definition of Facilities.

J. **"Facilities Lease"** shall mean this Facilities Lease, including any amendments or supplements thereto.

K. **"Fiscal Year"** shall mean the twelve-month period of each year beginning July 1 and ending on the following June 30.



L. **"IDWR Rent"** shall mean the portion of the Annual Rental IDWR is obligated to pay as provided in the Operating Agreement.

M. **"Insurer"** shall mean XL Capital Assurance Inc., a New York stock insurance company, as insurer of the Bonds.

N. **"Operating Agreement"** shall mean the operating agreement, dated as of December 17, 2002, between the IDWR, the Water Board and the University, which shall provide for the division between the IDWR and the University of all rights and obligations of the State as the lessee under this Facilities Lease.

O. **"Operating Costs"** shall mean the Authority's expenses (including reasonable reserves for such expenses) for condominium assessments, allocable administration and general expenses of the Authority, expenses for maintenance and repairs, insurance premiums, utility charges, legal, financial, architectural and engineering expenses, fees and expenses of fiduciaries under the Bond Resolution, bond insurance, guaranty and/or letter of credit fees, interest and finance charges, and any other expenses or contingencies to be paid or provided for by the Authority, all to the extent properly attributable to the Facilities and payable by the Authority. Operating Costs shall not include any Cost of Acquisition and Construction or any provision for depreciation, amortization or similar charges or any expenses for maintenance and repairs, utility services or insurance paid for or provided by the State pursuant to this Facilities Lease.

P. **"Option Space"** shall mean a portion of the Facilities not to exceed twelve percent (12%) of the "Net Rentable Square Footage" (as determined under standards established by the Building Owner Managers Association) of the Facilities to be conveyed to the State upon exercise of an option under Article 11 hereof.

Q. **"Unit No. 101"** shall mean Civic Plaza Condominium Unit No. 101 under the Civic Plaza Condominium Declaration on which the Facilities shall be constructed, as further described in Exhibit A hereof.

R. **"Unit Nos. 302A and 302B"** shall mean Civic Plaza Condominium Unit No. 302A and Unit No. 302B under the Civic Plaza Condominium Declaration on which secure fleet parking and related facilities shall be built, as further described in Exhibit A hereof.

S. **"University"** shall mean the Regents of the University of Idaho, a body politic and corporate organized under the Constitution and laws of the State of Idaho.

T. **"University's Rent"** shall mean the portion of the Annual Rent the University is obligated to pay as provided in the Operating Agreement.

### ARTICLE 3 LEASE OF PROJECT; TERM OF LEASE

#### Section 3.1 Lease of Facilities.

(1) The Authority hereby leases the Facilities to the State for its use in furtherance of the public benefit, and the State hereby leases the Facilities from the Authority on the terms and conditions set forth herein. Through the Operating Agreement, IDWR and the University



have allocated between each other the rights and obligations of the State as the lessee under this Facilities Lease. The State shall provide notice of such allocation to the Authority consistent with the Operating Agreement, and the Authority agrees to abide by such allocation for all purposes hereunder, except that in the absence of such notification, the Authority may treat the University as the primary contact for all issues relating to this Facilities Lease.

(2) The DOA is a party to and approves this Facilities Lease solely pursuant to Section 67-5708, Idaho Code. Nothing in this Facilities Lease, nor the DOA's being a party to it, shall obligate nor shall be deemed to obligate the DOA to make any payment of Annual Rent or any other payment related to the Facilities resulting from or related to this Facilities Lease. Annual Rent is to be paid solely in the manner described in Section 6.2 hereof.

**Section 3.2 Term of Lease.** This Facilities Lease shall be in full force and effect from the effective date hereof. The initial term of this Facilities Lease shall extend from the effective date hereof through June 30, 2004. The State shall have the option to renew this Facilities Lease in accordance with the provisions hereof for successive Fiscal Years thereafter and each such renewal of this Facilities Lease shall be deemed to be exercised, automatically and without further action by the State, unless the State shall notify the Authority in writing of its intent not to renew this Facilities Lease not later than ten (10) months prior to the expiration of any lease term.

**Section 3.3 Compliance with the Fleet Space Sublease.** The State hereby agrees that it will comply with the Fleet Space Sublease.

#### ARTICLE 4 ACQUISITION, DEVELOPMENT AND FINANCING

**Section 4.1 Acquisition and Development of Facilities.** The Authority agrees to acquire real property by purchase or lease for use as the site of the Facilities and to diligently undertake development of the Facilities and to enter into agreements for project management, design, construction, and installation of improvements, fixtures and equipment of the Facilities.

**Section 4.2 Idaho Water Center Condominium.** The Authority agrees to use its best efforts to cause Unit No. 101 to be subdivided as a condominium into separate condominium units. Within a reasonable time following substantial completion of the construction of the Facilities, the Authority will create a condominium of Unit No. 101, including the platting thereof and the preparation of a condominium declaration to be approved by the Authority, the State and the Insurer, which will, upon the proper recording thereof, create the Idaho Water Center Condominiums (the "IWC Condominiums") and the separate units therein.

**Section 4.3 Financing of Facilities by the Authority.** The Authority agrees to finance the Cost of Acquisition and Construction of the Facilities by the issuance of Bonds as authorized by the Act. The Authority may from time to time refinance or refund such Bonds as the Authority may deem appropriate; provided the Authority shall not refinance or refund such Bonds without the written consent of the State if to do so would increase the Basic Rent due hereunder. The Authority shall give written notice to the State of its intent to refinance or refund such Bonds.

**Section 4.4 Bond Anticipation Notes.** The Authority may issue bond anticipation notes payable from proceeds of Bonds.



## ARTICLE 5 USE OF FACILITIES

### Section 5.1 Use of Facilities

With the written consent of the Authority and the Insurer, which shall not be unreasonably withheld, the State may enter into agreements with other entities including private entities and federal and local government entities ("Other Entities") for the operation and/or maintenance of the Facilities or for the sublease, use or occupancy of portions of the Facilities by Other Entities upon the following conditions:

(a) the nature and extent of the proposed agreements with Other Entities shall not, either collectively or individually, adversely affect the tax-exempt status of the Series 2003A Bonds;

(b) such proposed agreements, subleases, users or uses, both collectively and individually, shall be compatible with, and complementary to, the interests in, and uses of, the Facilities by the State; and

(c) such proposed agreements, subleases, users or uses do not violate or contravene any term or provision of this Facilities Lease and are subject to the terms of this Facilities Lease, including without limitation, the provision that the term of any sublease shall expire at the end of the term of this Facilities Lease.

In the event the State desires to enter into agreements with Other Entities relating to the Facilities, the State shall request the Authority's and the Insurer's consent thereto by written notice to the Authority and the Insurer setting forth a complete description of (a) the Other Entity, (b) the proposed services or uses to be provided by or made available to the Other Entity, (c) the proposed agreements or subleases, and (d) the proposed compensation or benefit to be provided to the Other Entity. The Authority and the Insurer shall approve such requests in accordance with the provisions of Section 5.1(a) through (c) above, and subject to such additional terms as shall be agreeable by the Authority, the State and the Other Entity.

## ARTICLE 6 RENT

**Section 6.1 Payment of Annual Rent.** In consideration of the lease of the Facilities, the State shall pay to the Authority, in advance and without any set off or deduction whatsoever, the following Annual Rent:

(1) For the period of the initial term of this Facilities Lease in the Fiscal Year ending June 30, 2004, the State shall pay no Annual Rent.

(2) For the renewal term of this Facilities Lease commencing July 1, 2004 and for each annual renewal term thereafter, the State shall, within 30 calendar days following the commencement of such renewal terms, pay in advance:



(a) As and for Basic Rent, an amount for such term which shall equal the principal installments, including sinking fund deposits, and interest payable in the corresponding Fiscal Year in accordance with the Bond Resolution with respect to the Bonds; and

(b) As and for Additional Rent as follows:

(i) the amount estimated by the Authority to be sufficient to provide the Authority with adequate monies to pay all Operating Costs attributable to the Facilities for the applicable term of this Facilities Lease, plus

(ii) the amount, if any, of deposits to any debt service reserve account, any operating fund, and any other reserve or expense accounts required to meet all terms and conditions of the Bond Resolution.

The Authority will provide to the State an estimate of Operating Costs attributable to the Facilities, which estimate shall accompany its statement for Additional Rent.

(3) Annual Rent payable for any renewal term shall not be deferred or abated because of delays in completion of the construction of the Facilities or delays in completion of any repair or replacement of damage to the Facilities.

(4) Any installment of Annual Rent which is not paid by the State on or before the due date thereof shall, from and after said due date, bear interest until paid at the highest rate per annum borne by any of the Bonds then outstanding; time being of the absolute essence of this obligation.

(5) The Authority and the State hereby agree that the Basic Rent in any lease term shall be reduced by any amounts on deposit with the Authority legally available for and allocated by the Authority to the payment of principal and interest on the Bonds including, without limitation, capitalized interest deposited from the proceeds of the Bonds and funds on deposit in the debt service fund for the Bonds established under the Bond Resolution.

(6) Basic Rent shall be increased or decreased as appropriate to reflect the issuance by the Authority of Bonds bearing interest at a variable rate and issuance of any additional Bonds issued to refinance the Facilities, in whole or in part, or any additional Bonds issued for the purposes set forth in Section 9.1 hereof or issued to finance additions, modification or replacement of the Facilities or any part thereof.

(7) Annual Rents shall be payable in lawful money of the United States of America, which shall be legal tender for public and private debts under the laws of the United States at the time of payment, provided that, upon prior written approval of the Authority, the State may transfer funds through electronic funds transfer. Payment shall be made at the office of the Authority or such other place or places as may be designated in writing by the Authority.

(8) The State and the Authority have agreed and determined that such Annual Rent represents the fair market rental value of the Facilities. In making such determination, consideration has been given to the Cost of Acquisition and Construction, and the costs of financing



of the Facilities and the Operating Costs thereof, and the uses and purposes of the Facilities which will accrue to the State and the Authority and the general public by reason of the use and occupancy thereof by the State and ownership by the Authority.

## **Section 6.2 Sources of Payment of Rentals.**

(1) The University may apply any general account appropriated funds of the State of Idaho or any non-appropriated funds under the supervision of the University, including but not limited to funds derived by the University from subleases or portions of the Facilities discussed under Section 5.1 hereof, to the payment of Basic Rent and Additional Rent hereunder. The parties hereto acknowledge that the Board of Regents of the University of Idaho and State Board of Education (the "Board") allocates a lump sum appropriation of general account funds of the State of Idaho to the University of Idaho separately from other lump sum appropriations that the Board allocates to other institutions under its supervision, and that the President of the University (the "University President") includes such appropriated funds in the operating budget of the University. In order to effectuate payment of the University's Rent hereunder from appropriated funds, the University President agrees to submit to the Board an operating budget that provides for the University's Rent to be paid from the general account appropriated funds allocated as a lump sum to the University, provided that the operating budget may also indicate the replacement of such funds from other University sources.

(2) IDWR will apply general account appropriated funds from its departmental operating budget to the payment of the IDWR Rent. Nothing hereunder shall obligate the Water Board to use any funds other than funds in IDWR's departmental operating budget from general account appropriated funds to pay IDWR Rent.

**Section 6.3 Application of Rent.** The Authority covenants to use and apply Annual Rent to payment of debt service of the Bonds, Operating Costs, deposits to required reserve accounts and other appropriate purposes pertaining to the Facilities and/or the Bonds all as provided in the Bond Resolution.

## **ARTICLE 7 OPERATION AND MAINTENANCE OF THE FACILITIES**

**Section 7.1 Operation, Repairs, and Maintenance.** The State shall, throughout the term of this Facilities Lease and each renewal term thereof, at the cost and expense of the State, keep and maintain or cause to be kept and maintained, the Facilities and all equipment, fixtures, additions and improvements thereof, in good order and condition, and shall, at the cost and expense of the State, make or cause to be made all necessary repairs, renewals, and replacements with respect to the Facilities. To the extent repairs or replacements are insured under policies maintained by the Authority and insurance proceeds are paid to the Authority, the State shall be entitled to such insurance proceeds to the extent of the actual costs incurred by the State and except to the extent the insurance proceeds are required to be otherwise applied in accordance with the terms of the Bonds. Subject to Section 10.1, in the event the Facilities or any part thereof are damaged or destroyed by uninsured or partially uninsured casualty of any kind, the State shall either replace or rebuild the Facilities in equal value, or pay such sums to the Authority as may be required to fully pay and discharge the Bonds.







(e) Any other insurance agreed to in writing by the State and the Authority.

(f) Any other insurance required by the terms and conditions of the Bonds.

(2) All insurance procured and any self-insurance plan maintained by the State shall comply with the following requirements:

(a) Each policy or policies of insurance shall be written by insurance companies authorized to do business in the State of Idaho and furnished through an insurance carrier or carriers satisfactory to the Authority or through a self-insurance plan satisfactory to the Authority and an Insurance Consultant pursuant to the Bond Resolution.

(b) True, correct and complete copies of all insurance policies or self-insurance plan and all endorsements, changes, amendments and supplemental provisions thereto shall be continually maintained by the State and shall be available for inspection and copying by the Authority at all times during the regular office hours of the State.

(c) All such insurance shall provide that coverage shall not be canceled or amended except upon sixty (60) calendar days prior written notice to the Authority. The Authority shall be furnished current certificates upon the commencement of the initial term and each renewal term of this Facilities Lease showing that all such insurance fully complies with the terms of this Facilities Lease, and current certificates shall be furnished at any other time or times as may be reasonably requested.

(d) All policies of insurance obtained by and any self-insurance plan maintained by the State shall include provisions that coverage shall not be affected, reduced or waived by any inaccurate or misleading statement or information furnished by the State in obtaining such insurance nor shall insurance under such policies furnished to the Authority be reduced by any actual or alleged breach of warranties made by the State in obtaining such insurance. All liability insurance furnished by the State shall include insurance covering the obligations of the State under Article 8 of this Facilities Lease.

(3) The Authority and the State hereby release each other from any and all liability or responsibility to the other as to any person claiming through or under either by way of subrogation or otherwise for any loss or damage to property caused by any casualty insured by the above-described coverages, even if the loss is caused by the fault or negligence of the other party or by any party for whom the other party is responsible.

(4) All insurance provided to the Authority by the State pursuant to this Facilities Lease shall name the Authority as additional insured and contain a loss payable clause providing for payment of proceeds to the Authority and the trustee of the Bonds.

(5) In the event the Authority is able to procure any or all of the insurance coverages herein required at a cost less than the cost incurred by the State thereof, the Authority agrees to do so and the cost thereof shall be included as Operating Costs of the Authority. In such event the obligation of the State to provide any such insurance shall continue until the insurance coverage procured by the Authority is actually in effect. Upon the expiration or termination of any







adversely affect the value of the Facilities or the rental value thereof and all the costs thereof shall be promptly paid or discharged so that the Facilities shall at all times be free of liens or claims for labor and materials supplied thereto. All repairs, replacements, alterations, additions, fixtures and permanent improvements to the Facilities shall be and become a part of the Facilities and shall become the property of the Authority.

**Section 9.2 Fixtures and Equipment.** The State shall maintain an inventory of all fixtures, equipment and other tangible personal property provided by the Authority with the Facilities and shall have the right to replace, at its expense, such tangible personal property as the State shall deem necessary or desirable in connection with its use of the Facilities.

## ARTICLE 10 DAMAGE, DESTRUCTION, AND CONDEMNATION

**Section 10.1 Damage, Destruction, and Condemnation.** Subject to the provisions of the Civic Plaza Condominium Declaration and the Bond Resolution, in the event of damage, destruction, or condemnation of the Facilities, or any part thereof, the net proceeds of any insurance or condemnation awards with respect to the Facilities and, to the extent necessary, the proceeds of any additional Bonds which may be issued by the Authority for such purpose pursuant to the terms and conditions of the Bonds, shall be used and applied by the Authority in accordance with the terms of the Bonds to repair, restore, rebuild, or replace the Facilities; provided, however, that, the Authority shall not be required to rebuild, replace, restore or repair the Facilities if (1) the Authority shall reasonably determine, as evidenced by a certificate of an independent consulting engineer, that not to do so would not materially adversely affect the operation of the Facilities, or (2)(a) the Authority shall reasonably determine, as evidenced by a certificate of an independent certified public accountant that the proceeds of any insurance or condemnation awards received by the Authority, together with other legally available money of the Authority, will be sufficient to pay the principal of, and premium and interest on the Bonds due up to and including such time as the Bonds may be called for optional redemption, and (b) the Authority irrevocably deposits such insurance proceeds or condemnation awards and other money into an escrow fund to redeem the Bonds on the first date such Bonds may be redeemed. In that event, excess insurance proceeds, if any, remaining after redemption of the Bonds shall be released from the escrow fund back to the Authority. Provided further, however, that notwithstanding the foregoing, the Authority must rebuild, replace, restore and repair the Facilities to the extent necessary to fulfill any duty of lateral and subjacent support imposed on the Facilities or any portion thereof pursuant to the Civic Plaza Condominium Declaration. Any repair, restoration, rebuilding, or replacement of the Facilities may be in accordance with such different design, plans, and specifications approved by the State as will or may provide facilities of the same or different nature or use, so long as any such change therein or thereof shall not reduce or otherwise adversely affect the value of the Facilities or the rental value thereof (except a repair, restoration, rebuilding or replacement performed solely to provide lateral and subjacent support). Notwithstanding any damage, destruction or condemnation of the Facilities, or any part thereof, the State shall continue to pay the Annual Rent due under this Facilities Lease, except to the extent the Authority actually receives proceeds of business interruption or loss of rents insurance described in Section 7.3 hereof.

**Section 10.2 Exercising Powers of an Owner.** The Authority and the State covenant and agree that in exercising any of the powers of an Owner pursuant to the Civic Plaza Condominium Declaration or any other condominium declaration which may be recorded affecting any part of the Facilities, they will cast their vote to build or rebuild, or not, following casualty, damage or



## ARTICLE 11

### OPTIONS TO PURCHASE

Section 11.3 Purchase Price.

C. The applicable Closing of the purchases under any Option shall occur within a reasonable time after the receipt of a notice of exercise of option to purchase by the Authority. Upon closing, the Authority shall convey title to the portion of the Option Space purchased under the Option by Special Warranty Deed to the State, or another entity if so directed by the State, warranting only that the Authority has not encumbered the property except as specifically disclosed in such deed and subject to any encumbrances created by the State. The State shall be responsible for any title insurance relating to such purchases.



## ARTICLE 12 PARTICULAR COVENANTS

**Section 12.1 Compliance with Laws and Regulations.** The State shall, at its own cost and expense, promptly comply with, or cause to be complied with, all laws and ordinances, rules, regulations and other governmental requirements, whether or not the same require structural repairs or alterations, which may be applicable to the State, the Facilities or the use or manner of use of the Facilities. The State shall also observe and comply with the requirements of all policies and arrangements of insurance at any time in force with respect to the Facilities.

**Section 12.2 Covenant Against Waste.** The State hereby covenants not to do or suffer or permit to exist any hazardous materials, contamination, waste, damage, disfigurement or injury to, or public or private nuisance, in or upon the Facilities in violation of any State of Idaho or federal laws or regulations and agree to pay all costs, charges, penalties or any other expense reasonably incurred or to be incurred to remove, restore or reclaim the Facilities by reason thereof.

**Section 12.3 Right of Inspection.** The State hereby covenants and agrees to permit the Authority and the authorized agents and representatives of the Authority to enter the Facilities at reasonable times during usual business hours for the purpose of inspecting the same, subject to reasonable security requirements and procedures of the State.

**Section 12.4 Condition of Facilities.** The Authority makes no representation regarding the condition of the interest in real property represented by Unit No. 101 underlying or adjacent thereto and the Authority shall not be liable for any latent or patent defects therein. The Authority agrees to construct the Facilities in accordance with the plans and specifications approved by the State.

**Section 12.5 Assignment and Subletting.** The State shall not assign or mortgage this Facilities Lease or any right hereunder or interest herein and shall not sublease the Facilities or any portion thereof pursuant to Section 5.1, without prior written consent of the Authority and the Insurer (which consent shall not unreasonably be withheld); provided, that in no event shall the State assign this Facilities Lease or any right hereunder or interest herein or sublease the Facilities or any portion thereof unless the State shall continue to remain liable for the performance of all the terms, covenants, and conditions contained in this Facilities Lease and unless the proposed assignee or sublessee shall agree, in writing, to be bound by all of the terms, covenants, and agreements contained in this Facilities Lease and all other agreements related thereto.

**Section 12.6 Covenant of Quiet Enjoyment.** The Authority covenants that it has full right and lawful authority to enter into this Facilities Lease and that, so long as the State shall pay the Annual Rent and shall duly observe all of their covenants and agreements in this Facilities Lease, the State shall have, hold, and enjoy, during the initial term of this Facilities Lease and each renewal term thereof, peaceful, quiet, and undisputed possession of the Facilities.

**Section 12.7 Tax Covenant.** The State hereby covenants for the benefit of the holders of the Series 2003A Bonds and the Authority that during the term of this Facilities Lease, the State will not take any action or omit to take any action with respect to the Series 2003A Bonds, the proceeds thereof, any other funds of the State or any Facilities financed or refinanced with the proceeds of the Series 2003A Bonds if such action or omission (i) would cause the interest on the Series 2003A Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of



the Code, (ii) would cause the Series 2003A Bonds to become "specified private activity bonds" with the meaning of Section 57(a)(5)(C) of the Code, or (iii) would cause interest of the Series 2003A Bonds to lose its exclusion from Idaho taxable income under present Idaho law. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Series 2003A Bonds until the date on which all obligations of the State and the Authority in fulfilling the above covenant under the Code have been met.

## ARTICLE 13 DEFAULT

**Section 13.1 Events of Default.** The following shall be events of default under this Facilities Lease:

- (1) Failure by the State to pay the Annual Rent as the same shall become due, or
- (2) Failure by the State or anyone contracting with the State to observe and perform any other covenant, condition, or agreement to be observed or performed under this Facilities Lease for a period of 30 calendar days after written notice, specifying such failure and requesting that it be remedied, given to the State by the Authority or trustee of the Bonds, unless the Authority or trustee shall agree in writing to an extension of such time prior to its expiration.

**Section 13.2 Remedies.** Whenever any event of default referred to in Section 13.1 hereof shall occur, the Authority may take any one or more of the following remedial steps:

- (1) Declare all Annual Rent payable for the applicable lease term then in effect to be immediately due and payable, together with applicable interest thereon.
- (2) Re-enter and take possession of the Facilities, exclude the State and their subtenants from possession thereof, and terminate this Facilities Lease.
- (3) Take such action at law or in equity as may appear necessary or desirable to collect all sums due and thereafter to become due, or to enforce performance and observation of any obligation, agreement, or covenant of the State under this Facilities Lease.

**Section 13.3 Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Authority 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 Facilities Lease, or now or hereafter existing at law or in equity. 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 the exercise of any remedy reserved to the Authority in this Article 13, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

## ARTICLE 14 SURRENDER OF FACILITIES

**Section 14.1 Surrender of Facilities.** In the event that the State elects not to renew or extend the term of this Facilities Lease or this Facilities Lease is otherwise terminated, the State



shall immediately quit and surrender the Facilities to the Authority in the same condition in which it existed at the date the construction of all Facilities was completed by the Authority, ordinary wear and tear excepted.

## ARTICLE 15 LIMITATION ON OBLIGATIONS

### Section 15.1 Obligations of Authority and State Limited to Certain Resources.

Notwithstanding any other provisions of this Facilities Lease, no obligation assumed by or imposed upon the Authority by this Facilities Lease shall require the performance of any act by the Authority except to the extent, if any, that the cost and expense of such performance may be paid from the proceeds of the Bonds issued by the Authority or from other funds legally available to the Authority to meet the cost and expense of such performance, and no obligation assumed by or imposed upon the State by this Facilities Lease shall require the performance of any act by the State, including, but not limited to, the payment of Annual Rent, except to the extent that funds may be available for such performance or payment from state general appropriations or, solely in the case of the University, from other funds legally available therefor. This Facilities Lease shall not be construed as obligating the Legislature of the State of Idaho to make future appropriations for the payment of Annual Rent or the performance of any other obligations under this Facilities Lease beyond the initial rental term or for any renewal term hereof. In the event that appropriated funds or, solely in the case of the University, other funds are not legally available for payment of Annual Rent or other obligations hereunder for any term, then this Facilities Lease shall be terminated. The liability of the State for payment of Annual Rent as it becomes due shall be in consideration of the right of the State, whether or not exercised, to occupy and/or use the Facilities for the then-current lease term.

## ARTICLE 16 MISCELLANEOUS

**Section 16.1 Pledge of Rent, Proceeds, and Lease.** It is expressly understood and agreed by the parties hereto that the Authority has the right to pledge and assign the Annual Rent, all proceeds receivable by the Authority from any sale of the Facilities, and its rights and interest under this Facilities Lease to secure: (i) the payment of the principal of and the interest on and redemption premium, if any, on the Bonds; and (ii) other obligations of the Authority under the terms and conditions of the Bonds.

**Section 16.2 Notices.** All notices or other communications hereunder shall be sufficiently given and shall be deemed given on the second business day following the day on which the same are mailed by certified mail, postage prepaid, addressed as follows:

(1) If to the State, a copy of such notice shall be provided to:

(a) the University of Idaho, Vice President for Finance and Administration, Administration Building, Room 211, Moscow, Idaho 83844-3168; and

(b) the Idaho Department of Water Resources and the Idaho Water Resource Board, Attention Director, P.O. Box 83720-0098, Boise, Idaho, with a copy to Department of Administration, 650 West State Street, P.O. Box 83720-0098, Boise, Idaho 83720-0098.



(c) the Department of Administration, to the attention of Deputy Attorney General, Department of Administration, Post Office Box 83720, Boise, Idaho 83720-0003.

(2) If to the Authority, to the attention of Executive Director, Idaho State Building Authority, Post Office Box 2802, Boise, Idaho 83701.

The State or the Authority may, by notice given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent. Notice may be also given by personal delivery of a written notice.

**Section 16.3 Severability.** In case any one or more of the provisions of this Facilities Lease shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Facilities Lease, but this Facilities Lease shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

**Section 16.4 Attorney Fees.** In the event either party to this Agreement is required to initiate or defend litigation with respect to the terms hereof or to enforce any of its rights hereunder, the prevailing party in such litigation shall be entitled to reasonable attorney's fees incurred in such litigation, including all discovery costs and costs of expert witnesses, together with all reasonable litigation expenses.

**Section 16.5 Headings.** The article and section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this Facilities Lease.

**Section 16.6 Counterparts.** This Facilities Lease 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 16.7 Amendments.** The Authority and the State shall not, without the written consent of the Trustee of the Bonds or other legally-authorized representative of the interests of the owners of the Bonds, consent or agree to or permit any rescission of or amendment to or otherwise take any action under or in connection with this Facilities Lease which will reduce the payments required to be made by the State hereunder during the initial term or any renewal term hereof, or which will in any manner materially impair or adversely affect the rights of the Authority hereunder, and any action by the Authority or the State in violation of this covenant shall be null and void as to the Authority and the State. Furthermore, any voluntary amendment, modification or termination of this Facilities Lease shall require the written consent of all parties to this Facilities Lease.

**Section 16.8 Effective Date.** This Facilities Lease shall be effective as of the date stated above upon its execution.

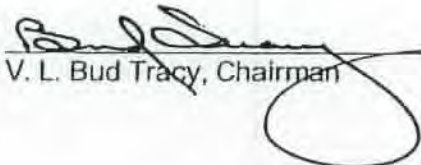


IN WITNESS WHEREOF, the parties hereunto have caused this Facilities Lease to be executed as of the day and year first hereinabove set forth.

AUTHORITY:


IDAHO STATE BUILDING AUTHORITY

By:

  
V. L. Bud Tracy, Chairman

ATTEST:

By:

  
Wayne V Meuleman, Secretary

STATE OF IDAHO

Acting Through:

IDAHO WATER RESOURCE BOARD

By:

\_\_\_\_\_  
Joseph L. Jordan, Chairman

THE IDAHO DEPARTMENT OF WATER  
RESOURCES

By:

\_\_\_\_\_  
Karl J. Dreher, Director

DEPARTMENT OF ADMINISTRATION

By:

\_\_\_\_\_  
Pamela Ahrens, Director

IN WITNESS WHEREOF, the parties hereunto have caused this Facilities Lease to be executed as of the day and year first hereinabove set forth.

**AUTHORITY:**

**IDAHO STATE BUILDING AUTHORITY**

By: \_\_\_\_\_  
V. L. Bud Tracy, Chairman

**ATTEST:**

By \_\_\_\_\_  
Wayne V Meuleman, Secretary

**STATE OF IDAHO**  
**Acting Through:**

**IDAHO WATER RESOURCE BOARD**

By: \_\_\_\_\_  
Joseph L. Jordan, Chairman

**THE IDAHO DEPARTMENT OF WATER  
RESOURCES**

By: \_\_\_\_\_  
Karl J. Dreher, Director

**DEPARTMENT OF ADMINISTRATION**

By: \_\_\_\_\_  
Pamela Ahrens, Director

IN WITNESS WHEREOF, the parties hereunto have caused this Facilities Lease to be executed as of the day and year first hereinabove set forth.

**AUTHORITY:**

**IDAHO STATE BUILDING AUTHORITY**

By: \_\_\_\_\_  
V. L. Bud Tracy, Chairman

**ATTEST:**

By \_\_\_\_\_  
Wayne V Meuleman, Secretary

**STATE OF IDAHO  
Acting Through:**

**IDAHO WATER RESOURCE BOARD**

By: \_\_\_\_\_  
Joseph L. Jordan, Chairman

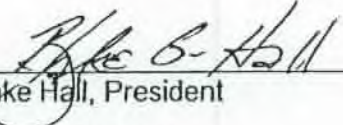
**THE IDAHO DEPARTMENT OF WATER  
RESOURCES**

By: \_\_\_\_\_  
Karl J. Dreher, Director


**DEPARTMENT OF ADMINISTRATION**

By: *Pamela J. Ahrens*  
Pamela Ahrens, Director

BOARD OF REGENTS OF THE  
UNIVERSITY OF IDAHO

By:   
Blake Hall, President

UNIVERSITY OF IDAHO

By:   
Robert A. Hoover, President,  
University of Idaho



STATE OF IDAHO     )  
                                   ) ss.  
 County of Ada        )

On this 17 day of December, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared V.L. Bud Tracy and Wayne V Meuleman, known or identified to me to be respectively the Chairman and Secretary, respectively, of the IDAHO STATE BUILDING AUTHORITY, each of whom acknowledged to me that they executed the within Facilities Lease on behalf of the Idaho State Building Authority in their representative capacity.

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

Shonna Russell  
 Notary Public for the State of Idaho  
 Residing at Boise ID  
 My commission expires 10/29/03

STATE OF IDAHO     )  
                                   ) ss.  
 County of Ada        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph L. Jordan, known or identified to me to be the Chairman of the IDAHO WATER RESOURCE BOARD of the STATE OF IDAHO, who acknowledged to me that he executed the within Facilities Lease on behalf of the State in his representative capacity.

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

\_\_\_\_\_  
 Notary Public for the State of Idaho  
 Residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_

STATE OF IDAHO     )  
                               ) ss.  
 County of Ada        )

On this \_\_\_\_ day of \_\_\_\_\_, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared V.L. Bud Tracy and Wayne V Meuleman, known or identified to me to be respectively the Chairman and Secretary, respectively, of the IDAHO STATE BUILDING AUTHORITY, each of whom acknowledged to me that they executed the within Facilities Lease on behalf of the Idaho State Building Authority in their representative capacity.

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

\_\_\_\_\_  
 Notary Public for the State of Idaho  
 Residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_

STATE OF IDAHO     )  
                               ) ss.  
 County of Ada        )

On this 13<sup>th</sup> day of December, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph L. Jordan, known or identified to me to be the Chairman of the IDAHO WATER RESOURCE BOARD of the STATE OF IDAHO, who acknowledged to me that he executed the within Facilities Lease on behalf of the State in his representative capacity.

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



Rita L. Fleck  
 Notary Public for the State of Idaho  
 Residing at Boise, Idaho  
 My commission expires 1/23/2006



STATE OF IDAHO     )  
                                   ) ss.  
 County of Ada         )

On this 17 day of December, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Karl J. Dreher, known or identified to me to be the Director of the IDAHO DEPARTMENT OF WATER RESOURCES of the STATE OF IDAHO, who acknowledged to me that he executed the within Facilities Lease on behalf of the State in his representative capacity.

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

Shonna Russell  
 Notary Public for the State of Idaho  
 Residing at Boise ID  
 My commission expires 10/28/03

STATE OF IDAHO     )  
                                   ) ss.  
 County of Ada         )

On this \_\_\_\_ day of \_\_\_\_\_, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Pamela Ahrens, known or identified to me to be the Director of the DEPARTMENT OF ADMINISTRATION of the STATE OF IDAHO, who acknowledged to me that she executed the within Facilities Lease on behalf of the State in her representative capacity.

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

\_\_\_\_\_  
 Notary Public for the State of Idaho  
 Residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_

STATE OF IDAHO     )  
                                       ) ss.  
 County of Ada         )

On this \_\_\_\_ day of \_\_\_\_\_, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Karl J. Dreher, known or identified to me to be the Director of the IDAHO DEPARTMENT OF WATER RESOURCES of the STATE OF IDAHO, who acknowledged to me that he executed the within Facilities Lease on behalf of the State in his representative capacity.

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

\_\_\_\_\_  
 Notary Public for the State of Idaho  
 Residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_

STATE OF IDAHO     )  
                                       ) ss.  
 County of Ada         )

On this <sup>db</sup> 10<sup>th</sup> day of December, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Pamela Ahrens, known or identified to me to be the Director of the DEPARTMENT OF ADMINISTRATION of the STATE OF IDAHO, who acknowledged to me that she executed the within Facilities Lease on behalf of the State in her representative capacity.

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



Diane K. Blume

\_\_\_\_\_  
 Notary Public for the State of Idaho  
 Residing at Boise  
 My commission expires 9-6-07



STATE OF IDAHO     )  
                                   ) ss.  
 County of Ada        )

On this 17<sup>th</sup> day of December, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Blake Hall, known or identified to me to be the President of THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO (the "University"), who acknowledged to me that he executed the within Facilities Lease on behalf of the University in his representative capacity.

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



Debby Flores  
 Notary Public for the State of Idaho  
 Residing at Boise Idaho  
 My commission expires 8-19-2008

STATE OF IDAHO     )  
                                   ) ss.  
 County of Ada        )

On this 17<sup>th</sup> day of December, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert A. Hoover, known or identified to me to be the President of THE UNIVERSITY OF IDAHO (the "University"), who acknowledged to me that he executed the within Facilities Lease on behalf of the University in his representative capacity.

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



Debby Flores  
 Notary Public for the State of Idaho  
 Residing at Boise Idaho  
 My commission expires 8-19-2008

**List of Exhibits:**

Exhibit A      Description of Civic Plaza Condominium Unit Nos. 101, 302A and 302B

**EXHIBIT A****Unit 101:**

Unit 101, as shown on the Plat for Civic Plaza Condominiums appearing in the Records of Ada County, Idaho, in Book 85 of Plats, Pages 9420 to 9432 as Instrument No. 102116493 and defined and described in the Declaration of Covenants and Restrictions Establishing a Plan of Condominium Ownership for Civic Plaza Condominiums ("Declaration"), recorded in the Records of Ada County, Idaho as Instrument No. 102116495.

TOGETHER WITH the percentage of the common areas appurtenant to each such Unit as set forth in the Declaration, as supplemented from time to time, which percentage shall automatically change in accordance with supplemental declarations as the same are filed of record pursuant to the Declaration, and together with additional common areas in the percentages set forth in such supplemental declarations, which percentages shall automatically be deemed to be conveyed effective as of the date of each such supplemental declaration as though conveyed hereby.

**Unit 302A**

Unit 302A, as shown on the Plat for Civic Plaza Condominiums appearing in the Records of Ada County, Idaho, in Book 85 of Plats, Pages 9420 to 9432 as Instrument No. 102116493 and defined and described in the Declaration of Covenants and Restrictions Establishing a Plan of Condominium Ownership for Civic Plaza Condominiums ("Declaration"), recorded in the Records of Ada County, Idaho as Instrument No. 102116495.

TOGETHER WITH the percentage of the common areas appurtenant to each such Unit as set forth in the Declaration, as supplemented from time to time, which percentage shall automatically change in accordance with supplemental declarations as the same are filed of record pursuant to the Declaration, and together with additional common areas in the percentages set forth in such supplemental declarations, which percentages shall automatically be deemed to be conveyed effective as of the date of each such supplemental declaration as though conveyed hereby.

**Unit 302B**

Unit 302B, as shown on the Plat for Civic Plaza Condominiums appearing in the Records of Ada County, Idaho, in Book 85 of Plats, Pages 9420 to 9432 as Instrument No. 102116493 and defined and described in the Declaration of Covenants and Restrictions Establishing a Plan of Condominium Ownership for

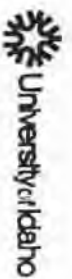
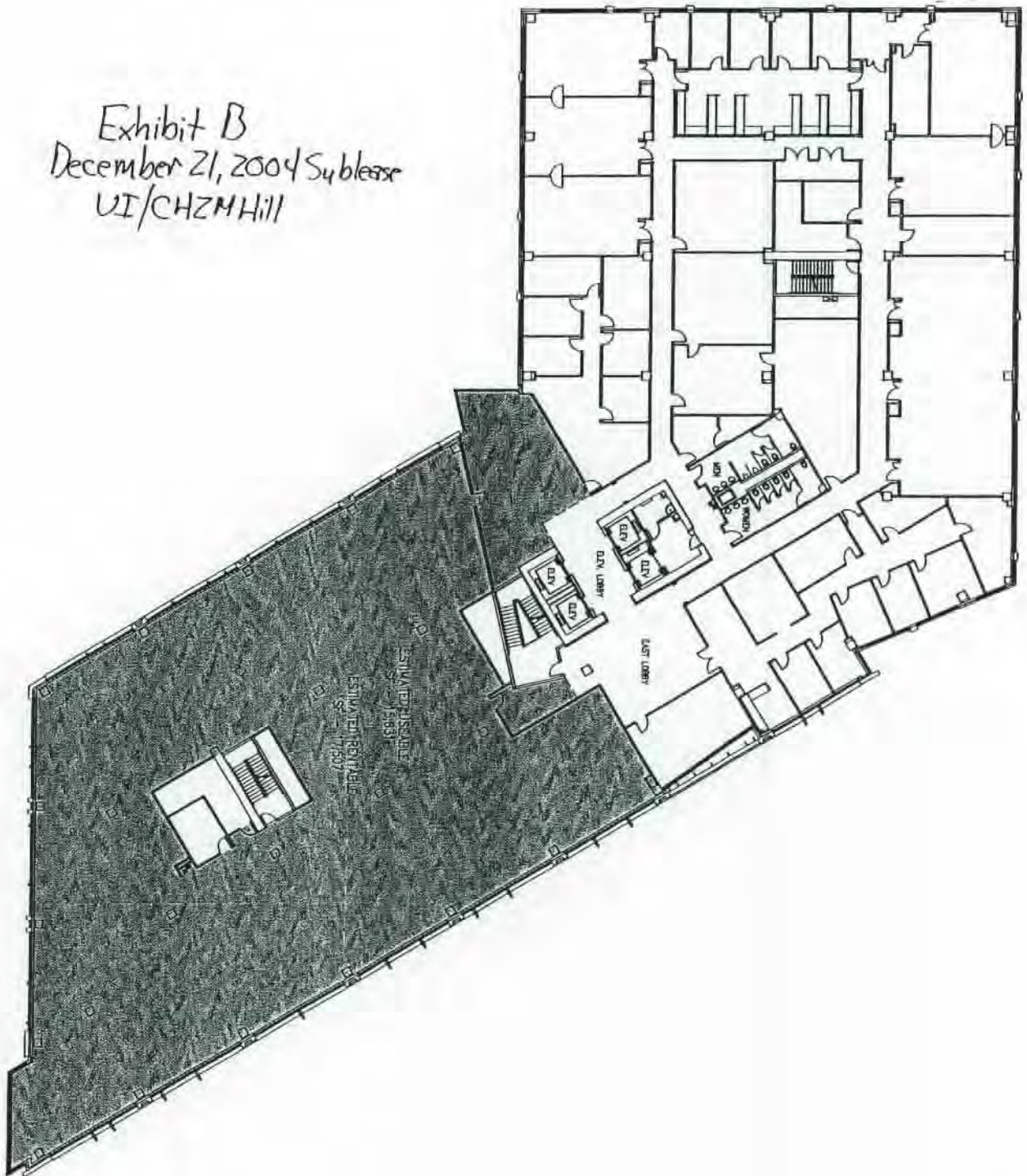


Civic Plaza Condominiums ("Declaration"), recorded in the  
Records of Ada County, Idaho as Instrument No. 102116495.

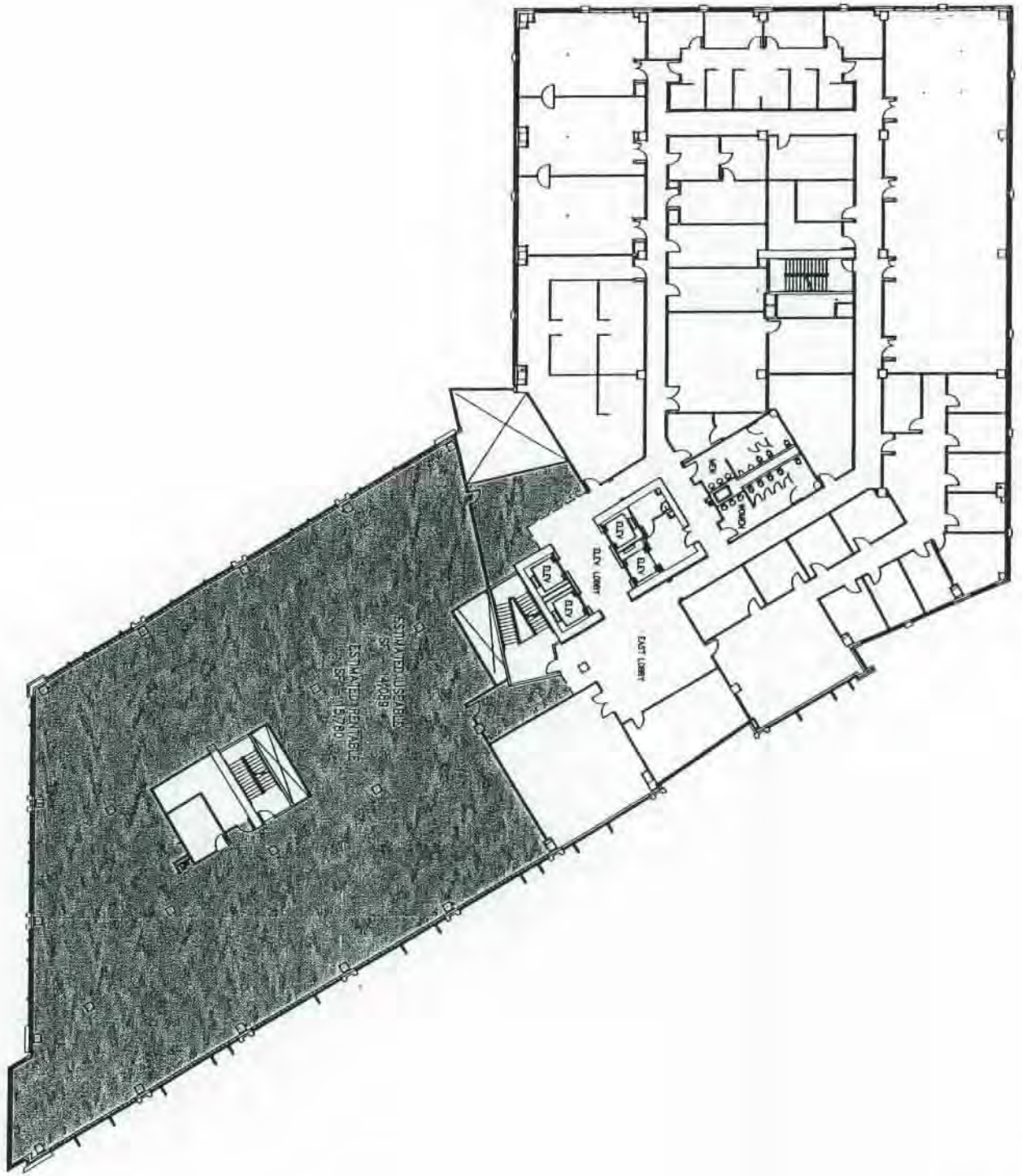
TOGETHER WITH the percentage of the common areas appurtenant to each such Unit as set forth in the Declaration, as supplemented from time to time, which percentage shall automatically change in accordance with supplemental declarations as the same are filed of record pursuant to the Declaration, and together with additional common areas in the percentages set forth in such supplemental declarations, which percentages shall automatically be deemed to be conveyed effective as of the date of each such supplemental declaration as though conveyed hereby.



Exhibit B  
December 21, 2004 Syblease  
VI/CHZMHill

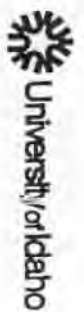
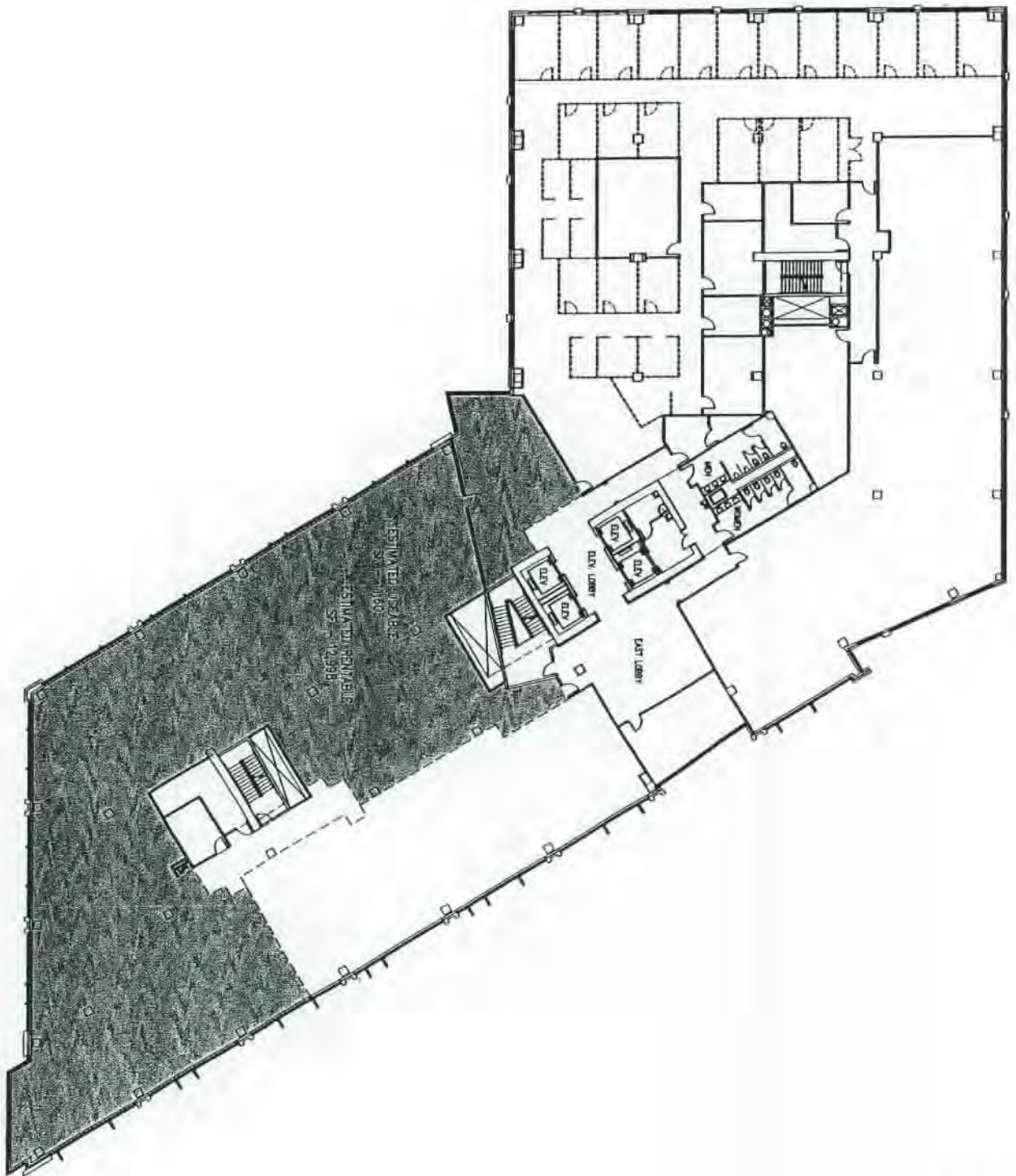


Idaho Water Center - #778  
Premises - Exhibit B  
Second Floor  
NOT TO SCALE  
14 December 2004



Idaho Water Center - #77B  
Premises - Exhibit B  
Third Floor  
NOT TO SCALE  
14 December 2004





Idaho Water Center - #778  
Premises - Exhibit B  
Fourth Floor  
NOT TO SCALE

14 December 2004

**Exhibit C**

<b>Recoverable Expenses:</b>	<b>Totals</b>
Alarm and Security	58,168
Professional Services	167,896
Grounds Maintenance	5,340
Utilities	260,756
Repair and Maintenance	250,106
Janitorial and Interiors	198,873
Insurance	36,800
Real Estate Taxes	-
<b>Total Recoverable Expenses</b>	<b>977,940</b>



Exhibit D  
December 21, 2004 Sublease  
UI/CH2M Hill

## **PARKING ACCESS AGREEMENT**

by and between

URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO aka  
CAPITAL CITY DEVELOPMENT CORPORATION,  
an independent public body politic and corporate  
constituting a public instrumentality of the State of Idaho

("Agency")

and

REGENTS OF THE UNIVERSITY OF IDAHO,  
a state educational institution and body politic and corporate organized and existing under  
the Constitution and laws of the State of Idaho

(the "University").

Dated: December 17, 2002

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Exhibits: Exhibit A – Legal Description of the Corridor Site



## PARKING ACCESS AGREEMENT

THIS PARKING ACCESS AGREEMENT ("Agreement") is made as of this 17th day of December, 2002 ("Effective Date") by and between the URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO aka CAPITAL CITY DEVELOPMENT CORPORATION, an independent public body politic and corporate constituting a public instrumentality of the State of Idaho ("Agency"), and the REGENTS OF THE UNIVERSITY OF IDAHO, a state educational institution and body politic and corporate organized and existing under the Constitution and laws of the State of Idaho (the "University").

### RECITALS

A. Ada County owns that certain 14-acre parcel of land in the City of Boise City, Idaho legally described on Exhibit A, attached hereto and made a part hereof (the "Corridor Site").

B. Pursuant to that certain Master Ground Lease, by and between the Agency and Ada County, dated December 1, 1999, as amended, and that certain Amended and Restated Surplus Ground Lease, by and between Agency and Ada County, dated October 1, 2002, as amended ("Surplus Ground Lease"), Agency has ground leased the entire Corridor Site until February 7, 2098.

C. Agency recognizes that the provision of adequate, convenient and available parking for the owners, tenants and users of the Corridor Site is a critical component of developing the Corridor Site into a commercially viable project. Therefore, Agency has:

(1) Secured ownership and/or control of certain Public Parking Facilities (as defined herein) to serve the Corridor Site;

(2) Entered into certain Parking Covenants (as defined herein) for the Public Parking Facilities to be operated and managed generally in accordance with a public, shared parking regimen, even if Agency no longer owns, leases, licenses or operates the Public Parking Facilities; and

(3) Adopted a Parking Management Plan (as defined herein) that sets certain policies concerning Agency's parking facilities, identifies general parking operations for Agency's parking operator, identifies various types of parking available (short-term, long-term, validated parking, etc.) and the process by which the Agency establishes parking rates.

D. Agency's ability to finance, construct and operate the Public Parking Facilities derives from (i) revenue from tax-increment generated from taxes assessed on real and personal



property located on the Corridor Site and other properties in the River Street-Myrtle Street Urban Renewal Area, and (ii) revenue from parking charges paid by users of the Public Parking Facilities.

E. Pursuant to that certain Acquisition Agreement, dated December 1, 2002, the Idaho State Building Authority, an independent public body corporate and politic of the state of Idaho ("ISBA"), has purchased Unit 101 from Ada County (including the right to use certain limited common area appurtenant to Unit 101) and, pursuant to that certain Fleet Parking Sublease, dated December 1, 2002, ISBA has subleased Units 302A and 302B from Agency.

F. ISBA intends to develop Units 101, 302A and 302B into a research and education facility containing a 216,000 square foot (approximately) office and laboratory building, fleet parking and storage (the "Idaho Water Center") and related improvements.

G. Pursuant to that certain Facilities Lease, dated December 1, 2002, ISBA has leased the Idaho Water Center to the State of Idaho (the "State") acting through the Department of Water Resources ("IDWR") and the University, each of which are state bodies as defined in the Idaho State Building Authority Act (the "Act").

H. The property of ISBA is exempt from taxation or assessment upon any property acquired or used by ISBA under the provisions of the provisions of the Act.

I. The Agency is not financially able to finance, construct or operate the Public Parking Facilities for the benefit of the owners and tenants of the Idaho Water Center and their employees, visitors and customers ("IWC Users") without a capital contribution to help cover the cost of the Public Parking Facilities.

J. To provide adequate parking for the IWC Users, the University desires to secure from Agency, for the benefit of the IWC Users:

(1) A commitment from the Agency that the Public Parking Facilities will have sufficient capacity to serve the commercially reasonable long-term, short-term and visitor parking needs of the Idaho Water Center; and

(2) The right to access and use the Public Parking Facilities upon payment of the Agency's customary parking charges; and

(3) The right to purchase a certain number of annual parking passes (initially 200) for the employees of state and local governmental entities occupying the Idaho Water Center to access the Public Parking Facilities on a shared parking basis, including, but not limited to, the 2B Garage and 3B Garage, for one (1) Fiscal Year (the "Annual Passes").



K. Agency has agreed to provide the University with the rights set forth in Recital J above in exchange for a payment of \$350,000 per year for thirty years, subject to deductions set forth in this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the recitals and the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

### ARTICLE 1. DEFINITIONS.

"2B Garage" will be located on Units 201B, 201C and 301 of the Civic Plaza Condominiums, and contains approximately 332 parking spaces. The 2B Garage does not include the Fleet Parking.

"3B Garage" is located on the 3A Expansion Parking and Parcel 3B (as defined in the Parking Covenants) and will contain approximately 424 parking spaces.

"Bond Covenants" means those covenants of the Agency regarding the tax exempt financing of the Public Parking Facilities referenced in Article VI of the Parking Management Plan, and the advice of Agency's bond counsel in the interpretation of applicable tax exempt covenants and restrictions.

"Civic Plaza Condominiums" means the condominium regime which has been created by that certain Plat of the Civic Plaza Condominiums and that certain Declaration of Covenants and Restrictions establishing a plan of condominium ownership for the Civic Plaza Condominiums, recorded in the real property records of Ada County, Idaho on October 9, 2002 as Instrument Nos. 102116493 and 102116495, respectively.

"Corridor Site" shall mean that certain 14-acre parcel of land in the City of Boise City, Idaho legally described on Exhibit A.

"Default Rate" shall have the meaning set forth in Section 6.18.

"Effective Date" shall be the closing of the currently contemplated bond financing for the Idaho Water Center.

"Fleet Parking" will be located in Units 302A and 302B (which will be physically integrated into the same structure as the 2B Garage) and will contain approximately 36 parking spaces.

"Fiscal Year" shall mean the twelve-month period of each year beginning July 1 and ending on the following June 30.



"Forest Service" shall mean United States of America, acting by and through the Forest Service, Department Of Agriculture.

"Idaho Water Center" shall mean that certain research and education facility containing a 216,000 square foot (approximately) office and laboratory building, fleet parking and storage to be constructed on Units 101, 302A and 302B of the Civic Plaza Condominiums, and certain utility facilities, storage and related improvements to be constructed in the limited common area appurtenant to Unit 101 and common area adjacent to Unit 101.

"IDWR" means the Idaho Department of Water Resources, an department of the State of Idaho.

"ISBA" means the Idaho State Building Authority, a public body corporate and politic of the State of Idaho.

"IWC Users" means the owners and tenants of the Idaho Water Center and their employees, visitors and customers.

"Parking Covenants" shall mean those certain Ada County Courthouse Corridor Parking Covenants Encumbering the West Corridor Site and Avenue A Site, dated October 1, 2002, and recorded in the real property records of Ada County, Idaho, on October 8, 2002 as Instrument No. 102115915, as it may be amended from time to time.

"Parking Management Plan" means the Agency's parking management plan for the Civic Plaza District of the River Street-Myrtle Street Urban Renewal Area adopted by the Agency on April 8, 2002, through the passage of Agency Resolution No. 883.

"Public Parking Facilities" means (i) all parking facilities now or hereafter located on the Corridor Site, including, but not limited to, the 2B Garage, 3B Garage, and interim surface parking lots (to the extent such interim surface lots are owned or controlled by Agency, and subject to County's existing rights under that certain Agreement Relating to Operation, Maintenance and Management of the Public Parking Facilities, dated May 15, 2002), as they may exist from time to time, (ii) all parking facilities now or hereafter owned, operated or controlled by Agency that are located within 600 feet of the Corridor Site, (iii) and all parking facilities now or hereinafter owned, operated or controlled by Agency that are located in downtown Boise and provided with a shuttle service that transports users of such parking facility to within 600 feet of Unit 101 and back to such parking facility at a convenient frequency (not greater than 15 minute intervals from the hours of 7:00 am to 6:00 pm on business days).

"Unit" means a condominium unit in the Civic Plaza Condominiums, as shown on the plat thereof.



## ARTICLE 2. BASIC TERMS.

2.1. Agency's Covenants. Agency, for itself and its successors and assigns, covenants that during the term of this Agreement:

2.1.1 The Public Parking Facilities will have sufficient capacity to serve the commercially reasonable long-term and transient parking needs of the Idaho Water Center.

2.1.2 The IWC Users shall be entitled to utilize the Public Parking Facilities on a nonexclusive, shared parking basis in accordance with the terms and conditions of the Parking Covenants and Parking Management Plan, as they may be amended from time to time, and subject to the payment of (i) the Agency's customary parking charges, and (ii) the Annual Contribution set forth in Section 2.2 below.

2.1.3 The University, or its assignee, shall have the right to purchase from Agency a certain number of annual parking passes for employees of state and local governmental entities occupying the Idaho Water Center to use the Public Parking Facilities, which shall include the right to use the 2B Garage and 3B Garage, on a shared parking basis for one (1) Fiscal Year (the "Annual Passes"). For the term of this Agreement beginning on July 1, 2004, Agency shall make 200 Annual Passes available for purchase. Not less than 60 days prior to the beginning of each Fiscal Year, the University shall notify Agency of (i) the number of Annual Passes requested by the University for the following Fiscal Year, and (ii) the name, license plate number and employment number of the state and local governmental employee for each Annual Pass requested. Not less than 30 days prior to the beginning of the Fiscal Year, the Agency shall notify the University of the number of Annual Passes available, which shall in no event be less than the number of Annual Passes provided to the University during the previous Fiscal Year; provided, however, Agency shall be under no obligation to provide the University with more than 200 Annual Passes. The purchase price for each Annual Pass shall be Agency's then current standard monthly rate multiplied by 12, less a 10% discount if the Annual Passes are paid in full prior to the beginning of the Fiscal Year. The Annual Passes shall not be transferred by the holder thereof, except to other state and local governmental employees provided that (i) no surcharge or markup is charged, and (ii) the Agency is first notified of the name, license plate number and employment number of the transferring user and receiving user. The University acknowledges and agrees that the transfer of an Annual Pass to a person other than a state or local governmental employee may be a default under the Bond Covenants, and, if so, shall be a default under this Agreement.

2.1.4 To the extent spaces are available, the operator(s) of the Public Parking Facilities shall sell monthly parking passes to IWC Users for use anywhere within the Public Parking Facilities, on a first come first served basis, at the Agency's then current standard rates.

2.2. Annual Contribution. For the rights secured under this Agreement, the University shall pay to Agency, subject to deductions and offsets set forth in this Agreement, in lawful money of the United States of America, at 805 W. Idaho Street, Suite 403, Boise, Idaho 83702,



or to such other person or at such other place as provided herein or as Agency may from time to time designate by notice in writing to the University, the sum of Three Hundred Fifty Thousand Dollars (\$350,000) per year, commencing on July 31, 2004 and for each Fiscal Year this Agreement is renewed, ending on July 31, 2033 (the "Annual Contribution"). If the Forest Service (or other tax-paying owners or tenants) occupies the currently contemplated approximately 24,000 net leasable square feet (measured in accordance with BOMA's Standard Method for Measuring Floor Area in Office Buildings — ANSI/BOMA 265.1-1996) ("NLSF") in Unit 101, the Annual Contribution shall be Three Hundred Seventeen Thousand Dollars (\$317,000). The amount of the reduction of the Annual Contribution in the preceding sentence shall be adjusted, *pari passu*, in the event the Forest Service (or other tax-paying owners or tenants) occupies more or less space in Unit 101 than the 24,000 NLSF currently contemplated. The Annual Contribution for any year shall also be reduced, *pari passu*, if tax-paying entities occupy space in Unit 101 based on the proportion of Unit 101 (excluding the currently contemplated ground floor retail (approximately 8,800 NLSF) and currently contemplated Forest Service space (approximately 24,000 NLSF)) occupied by such tax paying entity in calendar year in which the Annual Contribution is due. Upon payment of the final Annual Contribution in 2033, the University shall be entitled to enjoy the rights secured under this Agreement for the remainder of the term of this Agreement, and all renewals thereof, without any payment to Agency other than Agency's customary parking charges as otherwise set forth in this Agreement.

2.3. Term of Agreement. This Agreement shall be in full force and effect from the Effective Date. This Agreement shall terminate if the currently contemplated bond financing for the Idaho Water Center has not closed by January 31, 2003. The initial term of this Agreement shall extend from the Effective Date through June 30, 2004. The University shall thereafter have the option to renew this Agreement in accordance with the provisions hereof for successive Fiscal Years until July 1, 2097 (with this Agreement terminating on February 7, 2098), and each such renewal of this Agreement shall be deemed to be exercised, automatically and without further action by the University, unless the University shall notify the Agency in writing of its intent not to renew this Agreement not later than six (6) months prior to the expiration of any annual term.

### ARTICLE 3. USE, OPERATION AND MAINTENANCE.

3.1. Use and Operation – Generally. Agency, for itself and its successors and assigns, covenants that during the term of this Agreement, the Public Parking Facilities will remain open to the public, and the University shall enjoy the use of the Public Parking Facilities as described in this Agreement, even if the Agency no longer owns, leases, licenses or operates the Public Parking Facilities.

3.2. Parking Covenants/Parking Management Plan. The Agency agrees that Public Parking Facilities shall at all times be operated and managed in compliance with the Parking Covenants and Parking Management Plan, as they may be amended from time to time (even if the Agency no longer owns, leases, licenses or operates the Public Parking Facilities). The Agency agrees to provide the University with not less than thirty (30) days' prior written notice



of any proposed amendments to the Parking Covenants or Parking Management Plan that would materially impair the University's enjoyment of the rights secured under this Agreement in order to allow the University to express comments on the proposed amendments. Nothing herein, though, shall limit the discretion and authority of Agency to adopt changes to the Parking Covenants and Parking Management Plan (not inconsistent with the terms of this Agreement) and to establish parking rates.

3.3. Shared Parking Regimen. The Public Parking Facilities shall be operated as a shared parking regimen, rather than as individual units. Parking rates will be uniformly controlled to reflect market conditions and to meet any contractual or debt service requirements. The operator of the Public Parking Facilities shall make optimum use of the Public Parking Facilities by making provision for shared off-peak combinations of uses, such as office/residential, hospitality or event/retail when appropriate.

3.4. Public Parking. The Public Parking Facilities shall be operated in such a manner as to provide adequate public parking for the various uses located on the Corridor Site. Except for special arrangements for residential parking or for qualified governmental users granted under this Agreement, the Parking Covenants and Parking Management Plan, parking will be provided to users of the Corridor Site and members of the general public (monthly, hourly, or otherwise) on a first come first served basis.

3.5. Security. The operator(s) of the Public Parking Facilities will provide adequate security.

3.6. Hours of Operation. The Public Parking Facilities will be operated to provide access to users with monthly or annual parking passes on a 24-hour basis, and will be otherwise be open for transient, daily and event parking as set forth in the Parking Management Plan.

3.7. Parking Validations. The IWC Users shall be entitled to participate in any validation or other parking program of Agency.

3.8. Parking Facility Maintenance and Repair. Agency shall maintain and repair, or cause to be maintained and repaired, the Public Parking Facilities in a safe, attractive and clean condition and consistent with the provisions of Section 3(f) of the Parking Management Plan. Such services shall also include cleaning, snow removal, elevator maintenance, and parking control equipment maintenance. The Agency will use the most current *Parking Garage Maintenance Manual* (1996) published by the Parking Consultants Council of the National Parking Association, as a guide in providing such services.

3.9. Future Parking Facilities. The parties acknowledge that with each new parking facility developed on the Corridor Site there will be certain financing (tax exempt bonds, for example) and economic requirements specific to the project to be developed. The parties agree that financing and economic requirements may place additional restrictions or requirements on the use and operation of specific parking facilities developed on the Corridor Site. With respect



to future Public Parking Facilities, the parties agree that Agency shall be allowed to identify specific parking rights or uses and allow limited private or governmental parking uses in a Public Parking Facilities, so long as such uses are permitted by the applicable financing; provided, however, in no event shall any such uses materially impair the management and operation of all the Public Parking Facilities as a whole as a public shared parking system, as described in this Agreement, the Parking Covenants and Parking Management Plan.

#### ARTICLE 4. DEFAULT, REMEDIES; CURE

4.1. Default. If either party fails to perform or observe any of the covenants or provisions contained in this Agreement within thirty (30) days after written notice from the other party specifying the particulars of such default or breach of performance, or in the case of any curable failure which cannot with diligence be cured within such thirty (30) day period, if the defaulting party shall fail to commence to cure within such specified cure period and thereafter prosecute and complete the curing of such failure with diligence, it being intended, in connection with a curable failure not susceptible of being cured with diligence within such cure 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 diligence, then in that event defaulting party shall be responsible to non-defaulting party for any and all actual damages sustained by non-defaulting party, either directly or indirectly, as a result of such default.

4.2. Remedies. In addition to collecting damages as set forth above, in the event of a default, the non-defaulting party shall be entitled to seek an injunction or specific performance to cause the other party to comply with the terms of this Agreement. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by the other party.

#### 4.3. Rights of ISBA and IDWR in Case of Default.

4.3.1 Notice of Default to be Served on ISBA. Agency, upon serving the University with any notice required under the provisions of, or with respect to any default or dispute arising from or related to, this Agreement shall concurrently also serve a copy of such notice upon ISBA and IDWR at the addresses provided for in Section 6.5.3 and 6.5.4, respectively, and no notice by Agency to the University shall affect any rights of ISBA and IDWR unless and until a copy thereof has been received by ISBA or IDWR, as applicable.

4.3.2 Right to Cure University Default. If the University defaults under this Agreement, ISBA and IDWR shall, within sixty (60) days following the expiration of the period provided for the University to cure such default, have the right (but not the obligation), exercisable jointly or severally, to remedy such default under this Agreement, and Agency shall accept such performance by ISBA and/or IDWR as if the same had been made by the University. Such additional sixty (60) day period shall be extended if the breach is other than for the non-payment



of money and is such that it is not practicable to cure such default within such sixty (60) day period, provided that ISBA and/or IDWR commences such cure within said sixty (60) day period and diligently prosecutes such cure to completion.

4.4. Rights of ISBA and IDWR to Renew Agreement. If the University fails to renew the term of this Agreement, the Agency shall immediately notify ISBA and IDWR of such nonrenewal in writing at the addresses provided for in Section 6.5.3 and 6.5.4, respectively. ISBA and IDWR shall, within sixty (60) days following notification of such nonrenewal, have the right (but not the obligation), exercisable jointly or severally, to renew this Agreement upon the same terms and conditions as the University could have renewed this Agreement by assuming this Agreement in writing and performing all of the University's obligations under this Agreement, and Agency shall accept such renewal by ISBA and/or IDWR as if the same had been made by the University. Upon ISBA's and/or IDWR's renewal of this Agreement, ISBA and/or IDWR shall be entitled to all rights of the University under this Agreement.

4.5. Obligations of University Limited to Certain Resources. Notwithstanding any other provision of this Agreement, no obligation assumed by or imposed upon the University by this Agreement shall require the performance of any act by the University, including, but not limited to, the payment of the Annual Contribution, except to the extent that funds may be available for such performance or payment from state general appropriations or other funds legally available therefor. In the event that appropriated funds or other funds are not legally available for payment of the Annual Contribution or other obligations hereunder for any term, then this Agreement shall be terminated. The liability of the University for payment of the Annual Contribution as it becomes due shall be in consideration of the right of the University, whether or not exercised, to the benefits of this Agreement for the then-current term.

## ARTICLE 5. RESOLUTION OF DISPUTES.

In the event that a dispute arises between the parties concerning (i) the meaning or application of the terms of, or (ii) an asserted breach of this Agreement, the parties shall meet and confer in a good faith effort to resolve their dispute. The first such meeting shall occur within thirty (30) days of the first written notice from either party evidencing the existence of the dispute. The Executive Director of the Agency and the Vice President of Finance and Administration of the University shall both be included among the individuals representing the parties at the first such meeting. If the parties shall have failed to resolve the dispute within thirty (30) days after delivery of such notice, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation or other process of structured negotiation under the auspices of a nationally or regionally recognized organization providing such services in the Northwestern States or otherwise, as the parties may mutually agree before resorting to litigation or to arbitration. Should the parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation or other process of structured negotiation, each party shall have the right to pursue any rights or remedies it may have at law or in equity.



## ARTICLE 6. MISCELLANEOUS

6.1. Recitals. The parties agree that the recitals to this Agreement are not mere recitations, but are covenants of the parties and binding upon them as may be appropriate. In the event of a conflict between any recital and the body of this Agreement, the body of the Agreement shall control.

6.2. Severability. If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect to which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6.3. Gender and Number. Words used herein shall include the plural as well as the singular, as required by the context. Words used in the masculine gender include the feminine and neuter.

6.4. Captions. All captions, titles or headings in this Agreement are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

6.5. Notices. All notices required or permitted pursuant to this Agreement shall be in writing. All notices between the parties shall be deemed received when personally delivered or when deposited in the United States mail postage prepaid, registered or certified, with return receipt requested, or by recognized courier delivery (e.g. Federal Express, Airborne, Burlington, etc.) addressed to the parties, as the case may be, at the address set forth below or at such other addresses as the parties may subsequently designate by written notice given in the manner provided in this section:

6.5.1 If intended for Agency shall be addressed to:

Executive Director  
CAPITAL CITY DEVELOPMENT CORPORATION  
805 West Idaho, Suite 403  
Boise, Idaho 83701

6.5.2 If intended for the University shall be addressed to:

Vice President of Finance and Administration  
UNIVERSITY OF IDAHO  
Moscow, Idaho 83844

6.5.3 If intended for ISBA shall be addressed to:

Executive Director  
IDAHO STATE BUILDING AUTHORITY  
960 Broadway Avenue, Suite 500  
PO Box 2802  
Boise, Idaho 83701

6.5.4 If intended for IDWR shall be addressed to:

Director  
IDAHO DEPARTMENT OF WATER RESOURCES  
1301 North Orchard Street  
Boise, Idaho 83706

6.6. No Partnership. Neither anything contained in this Agreement, nor any acts of the parties, shall be deemed or construed by any person to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties or between any of the parties.

6.7. No Third Party Benefited. This Agreement is not intended nor shall it be construed to create any duty to, any standard of care with reference to or any liability to anyone not a party except as otherwise expressly provided herein, and no rights, privileges or immunities of any party hereto shall inure to the benefit of any third party, nor shall any third party be deemed a third party beneficiary of any of the provisions herein, except as expressly provided herein.

6.8. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Idaho.

6.9. Venue and Jurisdiction. As a material part of the consideration for this Agreement, each of the parties hereto agrees that in the event any legal proceeding shall be instituted between them, such legal proceeding shall be instituted in the District Court for the Fourth Judicial District, State of Idaho, and each of the parties hereto agrees to submit to the jurisdiction of such court.

6.10. Successors and Assigns. This Agreement shall, except as otherwise provided herein, be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The University may assign its rights and obligations under this Agreement, in whole or in part, to any state or local governmental entity, including, but not limited to, ISBA or IDWR. Partial assignments shall be subject to the consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed. This Agreement shall not be assigned, in whole or in part, to any entity that is not a state or local governmental entity.



6.11. Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

6.12. No Waiver. No waiver of any default by any party shall be implied from any omission by any other party to take any action in respect of such default, whether or not such default continues or is repeated. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Agreement. The consent or approval by any such party to or of any act or request by any other party requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar acts or requests.

6.13. Interpretation. This Agreement shall be construed in accordance with its fair meaning and not strictly for or against any party.

6.14. Integration. This Agreement shall constitute the entire agreement between the parties, and there are no agreements or representations between the parties except as expressed herein. Except as otherwise provided herein, no subsequent change or addition to this Agreement shall be binding unless in writing and signed by the parties hereto.

6.15. Counterparts. This Agreement may be executed in any number of counterparts, and once so executed by all parties hereto, each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one (1) agreement.

6.16. Attorneys' Fees. In the event of any controversy, claim or action being filed or instituted between the parties to this Agreement to enforce the terms and conditions of this Agreement or arising from the breach of any provision hereof, the prevailing party will be entitled to receive from the other party all costs, damages, and expenses, including reasonable attorneys' fees, incurred by the prevailing party, whether or not such controversy or claim is litigated or prosecuted to judgment. The prevailing party will be that party who was awarded judgment as a result of trial or arbitration, or who receives a payment of money from the other party in settlement of claims asserted by that party.

6.17. Amendments to this Agreement. Agency and the University agree to mutually consider reasonable requests for amendments to this Agreement, which may be made by any of the parties hereto, lending institutions, bond counsel, or financial consultants to Agency or the

University, provided such requests are consistent with this Agreement and would not substantially alter the basic business terms included herein.

6.18. Default Rate. Any sums owing hereunder and not paid within ten (10) calendar days after the date when such sums are due shall bear interest at the rate set forth in Idaho Code Section 28-22-104(2) or any successor section (the "Default Rate"). Payment of such interest shall not excuse or cure any default by Agency or the University under this Agreement.


DATED effective as of the year and day first written above.

"Agency"

URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO aka  
CAPITAL CITY DEVELOPMENT CORPORATION, an  
independent public body politic and corporate constituting a  
public instrumentality of the State of Idaho

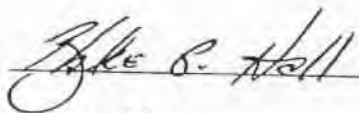
By:   
Chairman  
Executive Director

ATTEST:

  
Secretary

"University"

REGENTS OF THE UNIVERSITY OF IDAHO, a state  
educational institution and body politic and corporate organized  
and existing under the Constitution and laws of the State of  
Idaho

By:   
Its: President



STATE OF IDAHO )  
 ) ss.  
 County of Ada )

On this 18<sup>th</sup> day of December, in the year 2002, before me, a Notary Public in and for the State of Idaho, personally appeared Phil Kushlan, known or identified to me to be the <sup>Executive Director</sup> ~~Chairman~~ of the URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO aka CAPITAL CITY DEVELOPMENT CORPORATION, that executed the said instrument, and acknowledged to me that such URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO aka CAPITAL CITY DEVELOPMENT CORPORATION executed the same.

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



Deanna L. Silvers  
 Notary Public for Idaho  
 Residing at: Nampa, ID  
 My commission expires: 5-2-2003

STATE OF IDAHO )  
 ) ss.  
 County of Ada )

On this 17<sup>th</sup> day of December, in the year 2002, before me, a Notary Public in and for the State of Idaho, personally appeared Blake G. Hall, known or identified to me to be the President, authorized representative of the REGENTS OF THE UNIVERSITY OF IDAHO, that executed the said instrument, and acknowledged to me that such REGENTS OF THE UNIVERSITY OF IDAHO executed the same.



Debby Flores  
 Notary Public for Idaho  
 Residing at: Boise Idaho  
 My Commission expires: 8-19-2008

**EXHIBIT A**

Legal Description of the Corridor Site



## Parcel I

This parcel is a portion of the Citizen's Right-of-Way as on file in Book 170 of Deeds at Page 579 in the Office of the Recorder for Ada County, Idaho, is situated in the NE  $\frac{1}{4}$  and the SE  $\frac{1}{4}$  of Section 10, T.3N., R.2E., B.M., Boise, Ada County, Idaho and is more particularly described as follows:

COMMENCING at a brass cap marking the East  $\frac{1}{4}$  corner of said Section 10; thence along the East boundary of said Section 10

South  $01^{\circ}07'10''$  West 862.32 feet to a point on the Northerly boundary of the said Citizen's Right-of-Way; thence leaving the said East boundary and running along the said Northerly boundary

North  $56^{\circ}50'03''$  West (formerly North  $57^{\circ}09'$  West) 1612.91 feet to a point marked by an Idaho Power concrete monument; thence continuing along the said Northerly boundary

North  $76^{\circ}23'06''$  West (formerly North  $76^{\circ}41'$  West) 94.02 feet to a point on the Northwesterly right-of-way boundary of Third Street which point is the point of beginning; thence leaving the said Northerly boundary and running along the said Northwesterly right-of-way boundary

South  $35^{\circ}13'41''$  West 286.53 feet (formerly South  $34^{\circ}54'$  West 286.76 feet) to a point on a curve on the Northeasterly right-of-way boundary of Front Street as shown on the plans for Federal Aid Project No. DE-0083(302); thence leaving the said Northwesterly right-of-way boundary and running along the said Northeasterly right-of-way boundary Northwesterly 549.63 feet along the arc of a curve to the right having a radius of 3374.09 feet, a central angle of  $9^{\circ}20'36''$  (formerly a distance of 552.08 feet, a radius of 3384.47 feet and a central angle of  $9^{\circ}20'46''$ ) and a long chord which bears

North  $50^{\circ}17'38''$  West 549.61 feet (formerly North  $50^{\circ}36'16''$  West 551.45 feet) to a point of tangency; thence continuing along the said Northeasterly right-of-way boundary

North  $45^{\circ}37'20''$  West 132.64 feet (formerly North  $45^{\circ}55'53''$  West) to a point on the said Northerly boundary of the Citizen's Right-of-Way; thence leaving the said Northeasterly right-of-way boundary and running along the said Northerly boundary

South  $54^{\circ}40'31''$  East 116.75 feet (formerly South  $55^{\circ}06'$  East 117.6 feet) to a point marked by a  $\frac{3}{8}$ " iron pin; thence continuing along the said Northerly boundary

South  $76^{\circ}23'06''$  East 604.65 feet (formerly South  $76^{\circ}41'$  East 604.87 feet) to the point of beginning.

Said parcel contains 2.10 acres more or less.



## Parcel II

This parcel is a portion of the Citizen's Right-of-Way as on file in Book 170 of Deeds at Page 579 in the Office of the Recorder for Ada County, Idaho, is situated in the E ½ of Section 10, T.3N., R.2E., B.M. Boise, Ada County, Idaho and is more particularly described as follows:

COMMENCING at a brass cap marking the East ¼ corner of said Section 10; thence along the East boundary of said Section 10

South 01°07'10" West 862.32 feet to a point on the Northerly boundary of the said Citizen's Right-of-Way; thence leaving the said East boundary and running along the said Northerly boundary

North 56°50'03" West (formerly North 57°09' West) 66.42 feet to a point on the West right-of-way boundary of Broadway Avenue as shown on the plans for Federal Aid Project No. DE 0083(802); thence along the said West right-of-way boundary

South 01°07'10" West 322.33 feet (formerly South 00°01'19" West) to a point of curve; thence Southwesterly 63.90 feet along the arc of a curve to the right having a radius of 30.00 feet, a central angle of 122°01'50" and a long chord which bears

South 62°08'05" West 52.48 feet to a point of tangency on the Northeasterly right-of-way boundary of Front Street as shown on the said plans for Federal Aid Project No. DE 0083(802); thence leaving the said Westerly right-of-way boundary and running along the said Northeasterly right-of-way boundary

North 56°51'00" West (formerly North 57°09' West) 611.21 feet to the Point of Beginning; thence continuing

North 56°51'00" West (formerly North 57°09' West) 1068.83 feet to a point of curve; thence continuing along the said Northeasterly right-of-way boundary Northwesterly 30.98 feet along the arc of a curve to the right having a radius of 3374.09 feet, a central angle of 0°31'34" (formerly a distance of 30.54 feet, a radius of 3384.47 feet and a central angle of 0°31'01") and a long chord which bears

North 56°35'13" West 30.97 feet (formerly North 56°53'33" West 30.54 feet) to a point on the Southeasterly right-of-way boundary of Third Street; thence leaving the said Northeasterly right-of-way boundary and running along the said Southeasterly right-of-way boundary

North 35°13'41" East 317.00 feet (formerly North 34°54' East 317.21 feet) to a point on the said Northerly boundary of the Citizen's Right-of-Way; thence leaving the said Southeasterly right-of-way boundary and running along the said Northerly boundary

South 76°23'06" East 7.96 feet (formerly South 76°41' East 9.00 feet) to a point marked by an Idaho Power concrete marker; thence continuing along the said Northerly boundary

South 56°50'03" East 1092.37 feet (formerly South 57°09' East 1542.28 feet) to a point; thence leaving said northerly boundary

South 35°13'30" West 319.50 feet to the POINT OF BEGINNING.

Said parcel contains 8.07 acres more or less.



Project No. 02-019

April 1, 2002

### DESCRIPTION FOR CIVIC PLAZA CONDOMINIUMS

A parcel of land being a portion of the Citizen's right-of-way as filed in book 170 of deeds at page 579 records of Ada county, Idaho located in the East ½ of Section 10, T.3N., R.2E., B.M., Boise, Ada county, Idaho more particularly described as follows:

Commencing at a brass cap, marking the East 1/4 corner of said Section 10;

thence along the East boundary line of said Section 10 South 01°07'10" West, 862.32 feet to a point on the northerly boundary line of the said Citizen's right-of-way line;

thence leaving the said East boundary line and running along the said northerly boundary line North 56°50'03" West, 66.42 feet to a point on the West right-of-way line of Broadway Avenue as shown on the plans for federal aid project no. De0083(802), said point also being the **REAL POINT OF BEGINNING**;

thence South 01°07'10" West, 84.99 feet;

thence South 14°32'10" West, 11.98 feet;

thence South 05°13'56" West, 66.36 feet;

thence South 01°07'10" West, 139.25 feet;

thence South 01°56'14" West, 13.38 feet;

thence South 51°36'48" West, 45.80 feet;

thence North 67°23'36" West, 22.87 feet to a point on the northerly right-of-way line of West Front Street;

thence along said northerly right-of-way line North 56°51'01" West, 589.46 feet;

thence leaving said northerly right-of-way line North 35°13'30" East; 319.50 feet;

thence South 56°50'03" East, 454.12 feet to the **REAL POINT OF BEGINNING**, containing 4.03 acres, more or less.

Prepared by:  
HUBBLE ENGINEERING, INC.  
Gregory G. Carter, P.L.S.

Exhibit E  
December 21, 2004 Sublease  
UI/CH2MHill

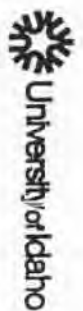


Idaho Water Center - #778  
Expansion Space - Exhibit E  
Fourth Floor  
NOT TO SCALE  
14 December 2004





Exhibit F  
December 21, 2004 Sublease  
UI/CH2MHill



Idaho Water Center - #778  
Fifth Floor  
Renewal Expansion Space - Exhibit F  
14 December 2004  
NOT TO SCALE

Exhibit G  
December 21, 2004 Sublease  
UT/CH2MHILL

CH2MHILL TI Pricing		
Trade	Construction Costs	Cost Per Usable SQ.FT
General Conditions	37,505	0.91
Sitework		-
Concrete		-
Masonry		-
Metals		-
Wood and Plastics	57,224	1.38
Thermal & Moisture Protection	5,870	0.14
Door and Windows	106,697	2.58
Finishes	409,170	9.90
Specialties	6,420	0.16
Equipment	635	0.02
Furnishings		-
Special Construction		-
Mechanical	124,822	3.02
Electrical	573,190	13.87
Construction Subtotal	1,321,533	31.98
General Requirements	52,105	1.26
Contractor's Fee	61,814	1.50
Reduction with bidding	(43,064)	(1.04)
<b>Construction Total</b>	<b>1,392,388</b>	<b>33.69</b>
Architectural	54,500	1.32
Construction Management	63,720	1.54
Carpet	118,732	2.87
Cabling Costs	81,886	1.98
Moving Allowance	61,988	1.50
<b>Total Project Costs:</b>	<b>1,773,213</b>	<b>42.91</b>
TI Allowance	1,859,625	45.00
Project Costs	1,773,213	42.91
Projected Savings	86,412	2.09
Amortized Rental Savings	0.42	
New Rent	19.08	





IDC ARCHITECTS

Exhibit G Continued  
December 21, 2004  
UI/CH2MHill

MEMORANDUM

Subject:	Test Fit Phase Pricing Notes	Date:	December 16, 2004
Project Name:	CH2M Tenant Improvement - Boise Office (Idaho Water Center #778)	Project Number:	40088.0002
To:	Tom Tearney - CH2M HILL	From:	Kris Leibelt - IDCA

Below are general guidelines to be used for preparation of the preliminary construction budget for modifications to Idaho Water Center #778, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floors. These notes are based on revised "Test Fit Space Plans" prepared by IDC Architects for CH2M HILL. Final space plans and construction documents would further define specific requirements and specifications for bidding. Record documents other than floor plans have not been available so no attempt has been made to review reflected ceiling plans, elevations, finish specifications, as-builts etc.

#### 1. GENERAL

- 1.1. Prior to submitting pricing, contractor is to visit site and meet with building management to identify work requirements, limitations, methods of trash removal, access to facility, parking, utilities and all other requirements that may affect contractor's pricing of work.
- 1.2. Contractor is required to visit site and to verify extent of demolition required to construct new layout. Contractor to verify that existing walls scheduled to remain are in place as indicated on plan. If existing walls indicated on plan are not in place notify architect and construct new.
- 1.3. Contractor to remove all scheduled walls, doors, and glazing as indicated on Demolition Plan along with any other items not indicated on plan but observed in site visit that would conflict with new space layout. In pricing submitted to CH2M HILL, contractor to provide clarification notes of any major items included in demolition pricing that was not indicated on plan.
- 1.4. Contractor to prepare surfaces throughout space to receive new finishes as indicated in Finish Notes of this document.
- 1.5. Verify availability of materials to be used from building stock with building management.
- 1.6. Contractor to remove and dispose of all abandoned cabling in walls and ceiling. Coordinate identification of abandoned cabling with telecom contractor under contract to CH2M HILL.
- 1.7. All adhesives used in constructing new facility to be non-toxic and environmentally safe.
- 1.8. Final construction documents will be issued for permitting and construction purposes. These notes are for preparation of preliminary pricing only.
- 1.9. Contractor to include in preliminary pricing all permits, sales tax, VAT tax, markups, profit, trash removal or other fees and charges that would be associated with the project.
- 1.10. All work shall comply with local building codes and requirements.

#### 2. ARCHITECTURE

- 2.1. All new walls to be building standard partitions to underneath side of ceiling grid unless noted otherwise. New walls to be constructed and finished to match existing construction including trim, finish and base.
- 2.2. Provide noncombustible wood blocking in walls to support millwork, standards and wall hung equipment.
- 2.3. Provide sound attenuation for walls for all conference rooms, reception area, mail/copy/file, plotter, and break rooms. Install sound batt attenuation inside wall cavity and 4'-0" to either side of partition above lay-in ceiling.



Page 2  
 December 16, 2004  
 CH2M Tenant Improvement - Boise  
 Office (Idaho Water Center #778)  
 Tom Teamey - CH2M HILL

## M E M O R A N D U M

- 2.4. Entrance doors and doors to building corridors are to be building standard. All other doors in lease space to be plain sliced oak instead of building standard. Size, frame type, lever style ADA passage hardware set and finish to match building standard
  - 2.5. At all office doors provide and install new 2'-0" wide x full height glass sidelites in frame to match door frames. Glazing in sidelite to be 1/4" thick clear tempered glass.
  - 2.6. In Mail/Copy Room, provide and install plastic laminate closed upper cabinets, lower closed cabinets, and closed island base cabinet as located on plan. Closed base cabinets to be 2'-6" deep and 3'-0" high with (1) adjustable shelf per section. Upper cabinets to be 1'-0" deep, inside clear, and 3'-0" high with (3) adjustable shelves per section. Interior finishes for all cabinets to be white melamine. All counter tops to be 1 1/2" thick with plastic laminate finish and 4" high backsplash.
  - 2.7. In Break Room, provide and install new plastic laminate closed uppers (similar to Mail Room) and closed base cabinets (similar to Mail Room). Provide 1 1/2" thick plastic laminate countertops typical for all base cabinets. Provide 2'-10" high counter top and recessed front panel with all clearances and requirements to conform to ADA requirements.
  - 2.8. In Reception Room, provide and install custom reception desk with stone transaction top. Reception desk to be constructed with low height wood veneer millwork partition (3'-6" above finish floor) with 1'-0" wide stone transaction top, plastic laminate counters with built-in B/B/F and closed base plastic laminate cabinet and pencil drawer. Provide for key lock at (2) cabinets and (2) B/B/F's.
  - 2.9. Provide for relocation and installation of existing high-density shelf system. Structural evaluation will be required to determine location.
  - 2.10. In Conference Rooms, provide and install 2'-0" wide x full height glass sidelite(s) as indicated on plan.
  - 2.11. In Conference Rooms, provide and install plastic laminate closed credenzas as indicated on plan. Credenza's to be 2'-0" deep and 3'-0" high with (3) adjustable shelves per section. Interior finishes to be white melamine. All counter tops to be 1 1/2" thick with plastic laminate finish and 4" high backsplash.
  - 2.12. In Conference Rooms, provide and install 8'-0" wide, as shown in drawings, manual projection screen: ceiling recessed at (3) large conference rooms and wall mounted at (3) medium conference rooms and none required at small conference rooms / areas.
  - 2.13. In each conference room, install (1) wall talkers whiteboard, entire length of wall, with trim and tray, provided by tenant
  - 2.14. Server Room partitions to run from floor to structure above with stand alone air conditioning system (see mechanical). Provide and install (6) 4' x 8' x 3/4" paint grade, non-combustible plywood phone boards painted white. Provide simplex combination door lock. If walls are to underside of ceiling construct pony wall to extend to structure above. Provide for access to cable runs above typical drawing height, i.e., using suspended acoustical ceiling system, no ceiling or access panels.
  - 2.15. Provide for vertical shaft/it closet for cabling w/ (1) rated access panel, per floor.
  - 2.16. Provide all new suspended ceiling system to match existing building standard system.
3. FINISHES
- 3.1. New carpet tile and rubber base to be used throughout tenant space unless noted otherwise. Contractor to provide carpet, labor, floor prep and materials to install carpet and base throughout lease space on raised floor system. The existing raised floor system is provided by



Page 3  
 December 16, 2004  
 CH2M Tenant Improvement - Boise  
 Office (Idaho Water Center #778)  
 Tom Tearney - CH2M HILL

## M E M O R A N D U M

- building landlord. Carpet selection to conform to building standards to coordinate compatibility with existing raised floor system. Allowance for carpet tile materials only to be \$20.00/ sy.
- 3.2. Paint all walls unless otherwise noted with a minimum of (2) coats of paint, Sherwin Williams HealthSpec Low Odor Interior Latex Eggshell B9 Series or equal.
- 3.3. Four paint colors will be used for interior palette. All paint colors will end on an inside wall.
- 3.4. In Break/Coffee, Copy/Mail, Server, Plotter, and Storage rooms provide and building standard vinyl tile and coved rubber base, to coordinate compatibility with existing raised floor system. Vinyl tiles to be checkerboard pattern with sporadic accent tiles. Colors TBD.
- 3.5. In Reception area and Main Conference room install upgrade carpet and wood base.
- 3.6. In Reception area provide and install fabric wall covering on walls. Allow \$20 yard for materials only.
- 3.7. In Conference Rooms, provide and install full height fabric wrapped tackable panels on (2) adjacent walls, except at glass. Allow \$20/yard for materials only.
- 3.8. No finish modifications or color changes are anticipated in restrooms and elevator lobby.
- 3.9. Building standard blinds to be provided and installed by landlord at all exterior windows. Contractor to provide and install building standard blinds at all interior windows.
- 4. ELECTRICAL LIGHTING
  - 4.1. Provide and install building standard indirect light fixtures at a distribution rate of 1:80 sf throughout lease office areas. Alternates indirect light fixture manufactures will be considered to lower cost of lighting. Contractor to submit alternates for consideration.
  - 4.2. Each room to be switched individually unless noted otherwise. Switches to be mounted at building standard height or 48" AFF if all switching is new.
  - 4.3. Lighting in new offices is to match existing light fixture style, manufacture, quantity and switching. Provide switches at each office.
  - 4.4. In Reception area provide and install (12) recessed incandescent down lights on dimmer.
  - 4.5. In Main Conference room provide and install (12) recessed incandescent down lights on (2) dimmer switches and (4) building standard 2' x 2' fluorescent light fixtures.
  - 4.6. In Small Conference room provide and install (6) recessed incandescent down lights on dimmer switch and (2) building standard fluorescent light fixtures.
  - 4.7. Provide and install exit signs and 24 hr. emergency light fixtures. Contractor to verify quantity and locations required by local building codes.
  - 4.8. Provide and install fire protection devices, including smoke detectors, fire alarms, alarm speakers, ADA strobes, etc. as required by local building codes and ADA. Include costs to tie such devices into building panel. Verify requirements and quantities of each device. Provide and install smoke detector above phone board tied into emergency system if required by code.
  - 4.9. Balance HVAC as required.
  - 4.10. Contractor to relocate sprinkler heads for new wall construction per local code requirements.
- 5. ELECTRICAL POWER
  - 5.1. Contractor to install electrical power wiring below raised access floor to match building standard conditions.
  - 5.2. Electrical contractor to verify panel locations and availability of circuits to support new electrical system requirements as noted prior to submitting estimate. Electrical contractor to provide all equipment and labor to complete electrical system as noted.



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 December 16, 2004  
 CH2M Tenant Improvement - Boise  
 Office (Idaho Water Center #778)  
 Tom Tearney - CH2M HILL

## M E M O R A N D U M

- 5.3. For voice/data system requirements, at each outlet electrical contractor to provide and install single-gang electrical box and conduit to 6" above ceiling. Voice/data wiring will be responsibility of CH2M HILL.
  - 5.4. Each office will require minimum of two duplex outlets. Locate one receptacle each in adjacent walls. Each office to have one voice/data outlet.
  - 5.5. Each cubicle will require two electrical duplex outlets in the furniture system. Electrical contractor to allow adequate circuits to support landscape furniture system. Electrical contractor to install 'power-in whip' (provided by furniture dealer) and connect to furniture system. All voice/data wiring for cubicles will be run through furniture panels; provide for (1) telecom port and (2) data ports per cubicle.
  - 5.6. Systems furniture will be powered from under existing raised floor system from (one connection for every 4 cubicles). Power poles will not be used.
  - 5.7. In Main Conference Rooms, provide and install (2) wall mounted electrical duplex receptacles, (1) wall mounted voice/data outlets, (1) flush floor mounted electrical poke-thru, (2) flush floor mounted voice/data poke-thru, and (1) electrical duplex and (1) voice/data outlet inside credenza.
  - 5.8. In Small Conference Room, provide and install (1) wall mounted electrical duplex receptacles, (1) wall mounted voice/data outlets, (2) flush floor mounted split combination electrical, and voice/data poke-thru, and (1) electrical duplex and (1) voice/data outlet inside credenza.
  - 5.9. In Reception area, provide and install (4) electrical duplex receptacles and double-gang box with conduit for voice/data wiring.
  - 5.10. In Mail/Copy Room, provide and install (1) dedicated receptacle for printer, (1) convenience receptacle, (1) dedicated electrical circuit for copier, (1) electrical duplex per 6 lineal feet of casework electrical duplex receptacles and (1) voice/data outlets per 6 lineal feet of casework.
  - 5.11. In Server Room, provide and install (6) dedicated electrical circuits, each with quad receptacles. Provide for #6 grounding bar for phone system; grounding bar to be provided and installed by cabling contractor.
  - 5.12. In Break Room, provide and install (8) electrical duplex receptacles and (2) voice/data outlet. Provide dedicated power where required by code for appliances and equipment noted below.
  - 5.13. In Storage/File Rooms, provide and install (1) wall mounted electrical duplex receptacles.
  - 5.14. Provide and install minimum of (1) electrical duplex receptacle every 50' for housekeeping.
  - 5.15. In Plotter Room, provide standard power for (2) plotters and (1) color Xerox; provide (2) data connections for plotters and (1) telecom port.
6. MECHANICAL
- 6.1. Mechanical system and diffuser layout to accommodate new partition locations and room usage to insure appropriate temperature control.
  - 6.2. Provide 24 hr. (3) ton air cooling mechanical system for Server Room. Provide thermostat on wall for control. Hang system from structure and provide minimum 9'-0" clearance below unit.
  - 6.3. Provide 1/4" copper water line with emergency shut off valve for tenant-supplied coffee makers. Provide water line with emergency shut off valve for refrigerators, water cooler, dishwashers and water heaters.
  - 6.4. Provide sound baffles at mechanical ducting between Conference Rooms and other areas.
  - 6.5. Building standard drinking fountains to be provided by landlord.
7. EQUIPMENT



Page 5  
 December 16, 2004  
 CH2M Tenant Improvement - Boise  
 Office (Idaho Water Center #778)  
 Tom Tearney - CH2M HILL

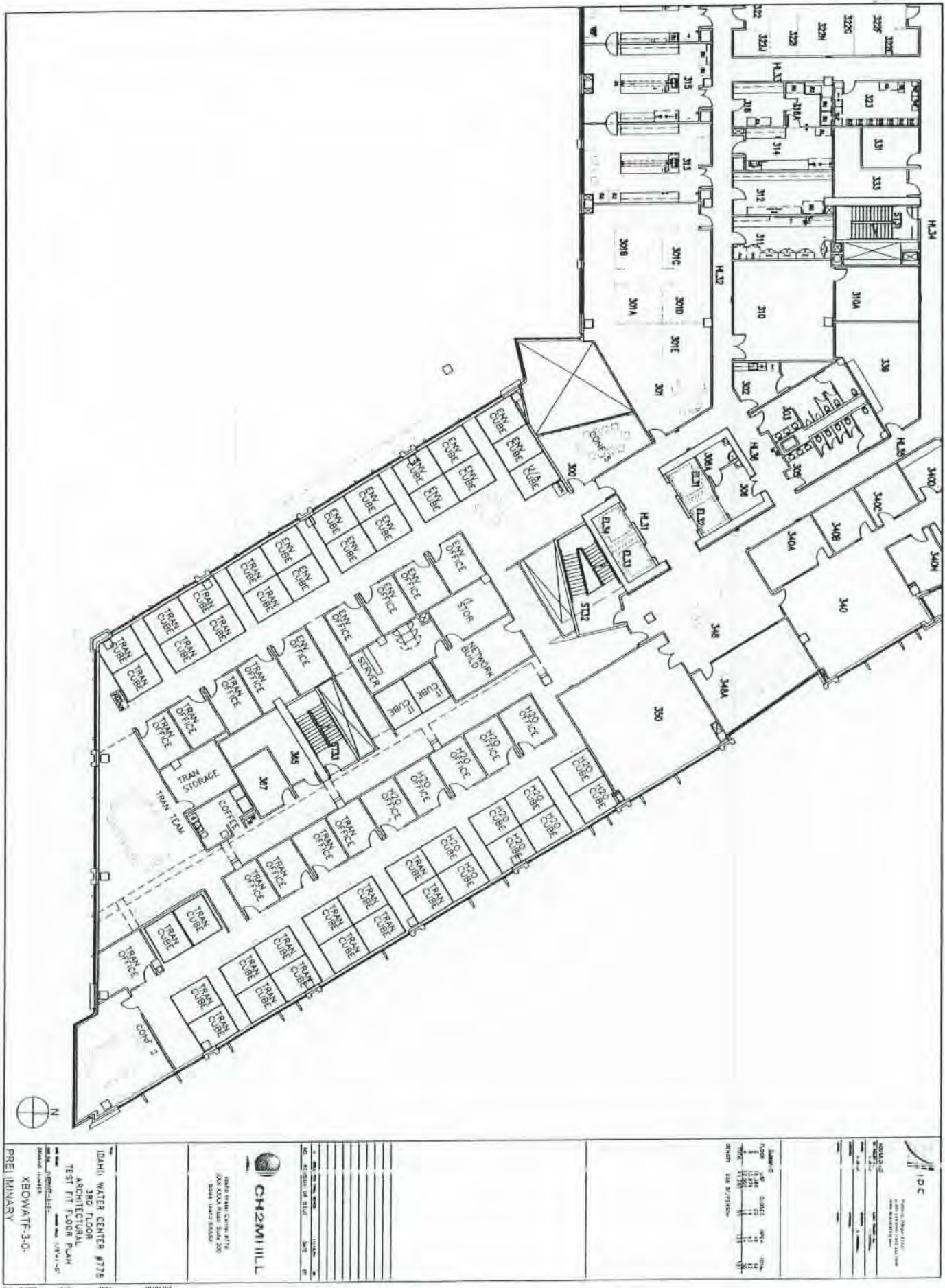
## MEMORANDUM

- 7.1. Appliances and plumbing fixtures:
  - 7.1.1. Stainless steel double compartment sink; Elkay#GECR-33211, 20 ga. stainless steel self-rimming sink with Elkay #LK-2423 gooseneck faucet and wing blade handles. Confirmed that sink and disposal combination when installed will conform to all ADA clearances and requirements.
  - 7.1.2. Garbage disposal: ¾ hp. Confirm disposal will mount in sink and conform to all ADA clearances and requirements.
  - 7.1.3. Water heater to be located in base cabinet adjacent to sink. Verify load requirements.
  - 7.1.4. Microwave: Provided by tenant.
  - 7.1.5. Dishwasher: GE #PDW 8700 JWW (or equal), 120v, 60hz, 8.6 amps, 4 cycles with pot-scrubber, size 24"w x 24-1/4"d x 34"h.
  - 7.1.6. Refrigerator w/ icemaker: Provided by tenant. Contractor to provide water line for icemaker.
  - 7.1.7. Water cooler: Provided and installed by vendor. Coordinate selection and requirements with tenant.
  - 7.1.8. Coffee machines provided and installed by vendor. Provide water line to coffee makers, see MECHANICAL
8. TELECOM
  - 8.1. CH2M HILL will provide budget pricing for voice and data system equipment, installation and termination. The Library shall include (1) data outlet.
  - 8.2. Telecom installation, if contracted separately by CH2M HILL, will be coordinated with TI improvements to have above ceiling work complete before ceiling tile is installed.
9. SECURITY
  - 9.1. If existing tenant security equipment is available for CH2M HILL's use, landlord to provide specifications for evaluation and compatibility with CH2M HILL's system requirements.
  - 9.2. Card readers identified by CH2M HILL to be located:
    - 9.2.1. Entry from public corridor to reception (corridor side only).
    - 9.2.2. From reception to open office area (reception side only).
    - 9.2.3. From public corridor to open office area (corridor side only).
    - 9.2.4. From public corridor to mailroom (corridor side only).
    - 9.2.5. From interior stair to open office area, each floor (stair side only).
  - 9.3. Additional security equipment design and installation to be identified at a future time.
  - 9.4. Provide locksets at Storage Room.
  - 9.5. Provide Simplex locks or card readers (coordinate with building standards) at Server/IT Room.

cc: Diane Whitehead - CH2M      Sent Via: Other  
      HILL  
      Sam Osheroff - CH2M HILL  
      Mary Collinge - CH2M HILL









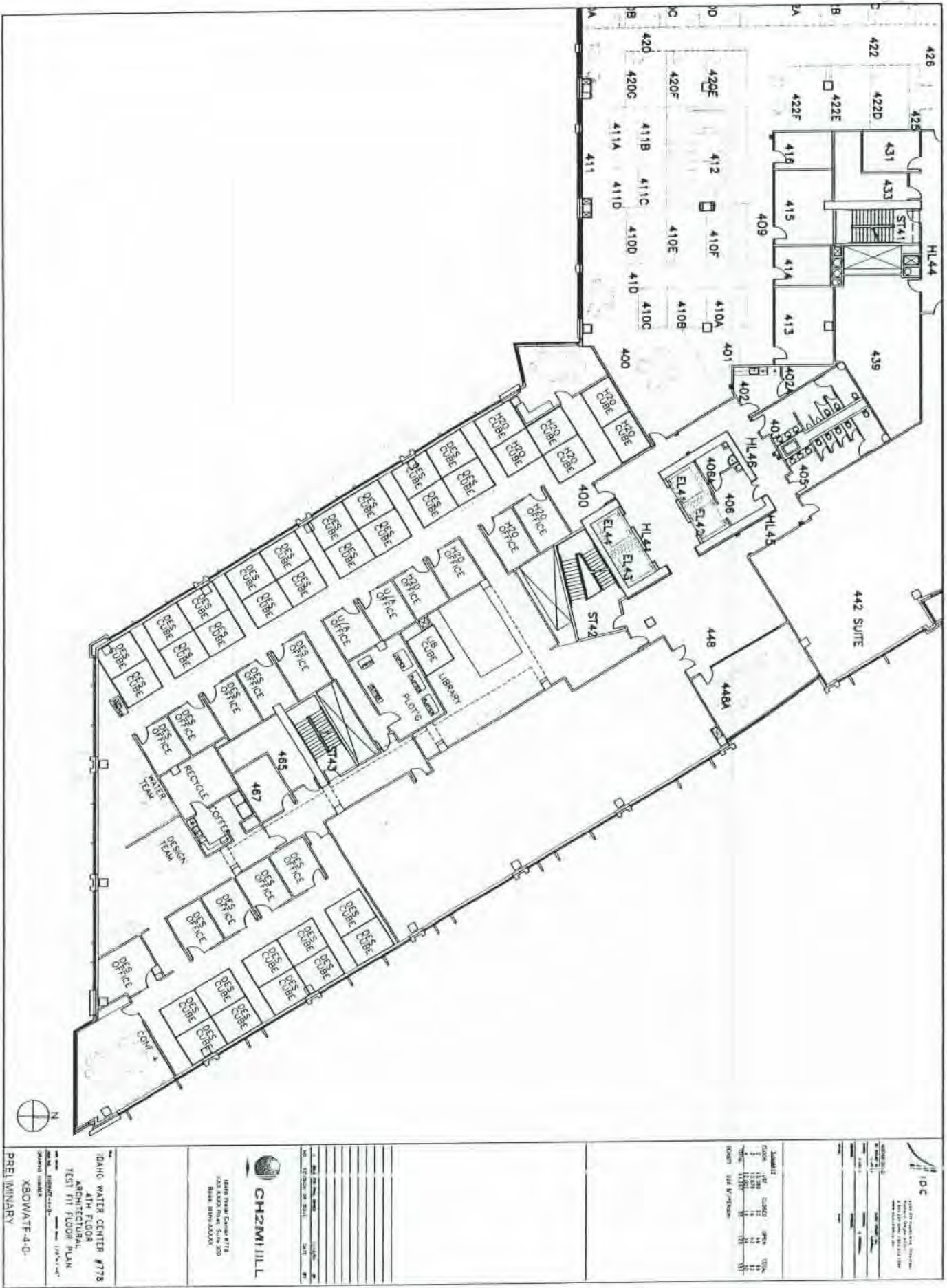
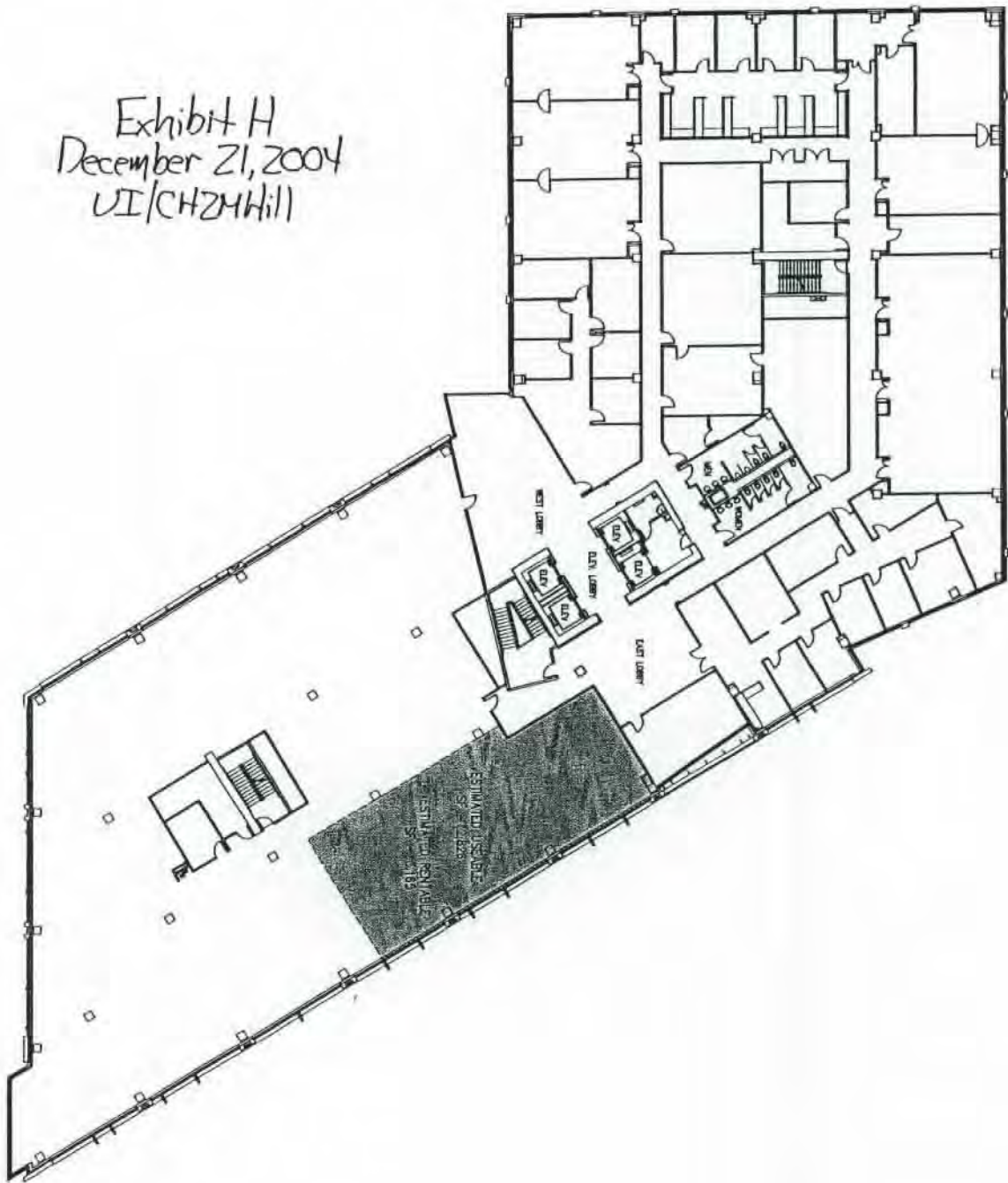


Exhibit H  
December 21, 2004  
VI/CH2M Hill



Idaho Water Center - #778  
Contraction Space - Exhibit H  
Second Floor  
30 November 2004  
NOT TO SCALE



**EXHIBIT "T"****Rules and Regulations**

1. Sublessee shall not obstruct or permit its agents, clerks or servants to obstruct, in any way, the sidewalks, entry passages, corridors, halls, stairways or elevators of the Building, or use the same in any other way than as a means of passage to and from the offices of Sublessee; bring in, store, test or use any materials in the Building which could cause a fire or an explosion or produce any fumes or vapor; make or permit any improper noises in the Building, smoke in the elevators; throw substances of any kind out of the windows or doors, or in the halls and passageways of the Building; sit on or place anything upon the window sills; or clean the exterior of the windows.

2. Sublessee shall not attach or hang any artwork, plants or any other items to the walls or ceilings without written permission from the Sublessor.

3. Building hours shall be 7:30 AM through 10:00 PM Monday through Saturday. During that time, reception, HVAC and lighting services will be provided. For services required outside of the building hours, said services may be provided for an additional fee.

4. Sublessee shall conduct all equipment and furniture moving pursuant to the Move-in / Move-out procedures contained within the Tenant Handbook and Emergency Procedures.

5. Water closets and urinals shall not be used for any purpose other than those for which they are constructed; and no sweepings, rubbish, ashes, newspaper or any other substances of any kind shall be thrown into them. Waste and excessive or unusual use of electricity or water is prohibited.

6. Sublessee shall not (i) obstruct the windows, doors, partitions and lights that reflect or admit light into the halls, or other places in the Building, or (ii) inscribe, paint, affix, or otherwise display signs, advertisements or notices in, on, upon or behind any windows or on any door, partition or other part of the interior or exterior of the Building without the prior written consent of Sublessor. If such consent be given by Sublessor, any such sign, advertisement, or notice shall be inscribed, painted or affixed by Sublessor, or a company approved by Sublessor, but the cost of the same shall be charged to and be paid by Sublessee, and Sublessee agrees to pay the same promptly, on demand.

7. No contract of any kind with any supplier of towels, water, ice, toilet articles, waxing, rug shampooing, Venetian blind washing, furniture polishing, lamp servicing, cleaning of electrical fixtures, removal of waste paper, rubbish or garbage, or other like service shall be entered into by Sublessee, nor shall any vending machine of any kind be installed in the Building, without the prior written consent of Sublessor.

8. When electric wiring of any kind is introduced, it must be connected as directed by Sublessor, and no stringing or cutting of wires will be allowed, except with the prior written consent of Sublessor (such consent not to be unreasonably withheld), and shall be done only by contractors approved by Sublessor. The number and location of telephones, telegraph instruments, electric appliances, call boxes, etc., shall be subject to Sublessor's approval. No Sublessee shall lay linoleum or other similar floor covering so that the same shall be in direct contact with the floor of the Leased Premises; and if linoleum or other similar floor covering is desired to be used, an interlining of builder's deadening felt shall be first affixed to the floor by a paste or other material, the use of cement or similar adhesive material being expressly prohibited.



9. No additional lock or locks shall be placed by Sublessee on any door in the Building, without prior written consent of Sublessor. Two keys will be furnished Sublessee by Sublessor; two additional keys will be supplied to Sublessee by Sublessor, upon request, without charge; any additional keys requested by Sublessee shall be paid for by Sublessee. Sublessee, its agents and employees, shall not have any duplicate key made and shall not change any locks. All keys to doors and washrooms shall be returned to Sublessor at the termination of the tenancy, and, in the event of loss of any keys furnished, Sublessee shall pay Sublessor the cost of replacing the lock or locks to which such keys were fitted and the keys so lost.

10. Sublessee shall not employ any person or persons other than Sublessor's janitors for cleaning the Leased Premises, without prior written consent of Sublessor. Sublessor shall not be responsible to Sublessee for any loss of property from the Leased Premises however occurring, or for any damage done to the effects of Sublessee by such janitors or any of its employees, or by any other person or any other cause.

11. No bicycles, vehicles or animals (except for seeing eye dogs) of any kind shall be brought into or kept in or about the Leased Premises.

12. Sublessee shall not conduct, or permit any other person to conduct, any auction upon the Leased Premises; manufacture or store goods, wares or merchandise upon the Leased Premises, without the prior written approval of Sublessor, except the storage of usual supplies and inventory to be used by Sublessee in the conduct of its business; permit the Leased Premises to be used for gambling; make any unusual noises in the Building; permit to be played any musical instruments in the Leased Premises; permit to be played any radio, television, recorded or wired music in such a loud manner as to disturb or annoy other Sublessees; or permit any unusual odors to be produced upon the Leased Premises.

13. No awnings or other projections shall be attached to the outside walls of the Building. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Leased Premises, without the prior written consent of Sublessor (such consent not to be unreasonably withheld). Such curtains, blinds and shades must be of a quality, type, design, and color, and attach in a manner approved by Sublessor.

14. Canvassing soliciting and peddling in the Building are prohibited, and Sublessee shall cooperate to prevent the same. Retail sales will be limited to the ground level and lower level retail store area.

15. There shall not be used in the Leased Premises or in the Building, either by Sublessee or by others in the delivery or receipt of merchandise, any hand trucks except those equipped with rubber tires and side guards, and no hand trucks will be allowed in passenger elevators.

16. Sublessee before closing and leaving the Leased Premises, shall ensure that all entrance doors are locked.

17. Sublessor shall have the right to prohibit any advertising by Sublessee which in Sublessor's opinion tends to impair the reputation of the Building or its desirability as a building for offices, and upon written notice from Sublessor, Sublessee shall refrain from or discontinue such advertising.

18. Sublessor hereby reserves to itself any and all rights not granted to Sublessee hereunder including, but not limited to, the following rights which are reserved to Sublessor for its purpose in operating the Building:



(a) The exclusive right to the use of the name of the Building for all purposes, except that Sublessee may use the name as its business address and for no other purpose;

(b) The right to change the name or address of the Building, without incurring any liability to Sublessee for so doing;

(c) The right to install and maintain a sign or signs on the exterior of the Building;

(d) The exclusive right to use or dispose of the use of the roof of the Building;

(e) The right to limit the space on the directory of the Building to be allotted to Sublessee; and

(f) The right to grant to anyone the right to conduct any particular business or undertaking in the Building.

19. Sublessee and Sublessee's employees shall park their automobiles only in such number of spaces, if any, as Sublessor may fix, taking into consideration the need for customer parking and other factors. The spaces, if any, assigned to Sublessee and Sublessee's employees shall be limited to any parking area designated by Sublessor for use of office Sublessees, and the right to use spaces so assigned to Sublessee and its employees shall be subject to such regulations as Sublessor may reasonably promulgate from time to time to prevent parking by unauthorized parties or parking in prohibited areas.

20. All safes shall stand on a base of such size as shall be designated by the Sublessor. The Sublessor reserves the right to inspect all freight to be brought into the Building and to exclude from the Building all freight which violates any of these Rules and Regulations or the Lease of which these Rules and Regulations are a part. No machinery of any kind or articles of unusual weight or size will be allowed in the Building, without the prior written consent of Sublessor. Business machines and mechanical equipment, if so consented to by Sublessor, shall be placed and maintained by Sublessee, at Sublessee's expense, in settings sufficient to absorb and prevent all vibration, noise and annoyance.

21. The Leased Premises shall not be used for lodging or sleeping purposes, and cooking therein is prohibited (except with respect to the customary office use of microwave ovens).

22. During times of heightened security, all persons entering or leaving the Building may be required to identify themselves to a watchman by registration or otherwise and to establish their rights to enter or leave the Building. Sublessor or its agents may exclude from the Building during such periods all persons who do not present satisfactory identification. Each Sublessee shall be responsible for all persons for whom he requests admission and shall be liable to Sublessor for all acts of such persons.

23. In addition to all other liabilities for breach of any provision of these Rules and Regulations, Sublessee shall pay to Sublessor all damages caused by such breach. The violation of any such provision may also be restrained by injunction.

24. Sublessor reserves the right to rescind, alter, waive or add, any Rule or Regulation at any time prescribed for the Building when, in the judgment of Sublessor, Sublessor deems it necessary or desirable for the reputation, safety, character, security, care, appearance or interests of the Building, or the preservation of good order therein, or the operation or maintenance of the Building, or the equipment thereof, or the comfort of Sublessees or others in the Building. No rescission, alteration, waiver or addition of any Rule or Regulation in respect of one Sublessee shall operate as a rescission, alteration or waiver in respect of any other Sublessee.



CH2MHILL 5TH FLOOR  
Preliminary Construction Budget  
October 10, 2006

Exhibit 2  
(First Amendment to Sublease)

Version 4 (Preliminary Draft Combined Projects)

CATEGORY	ESTIMATE		CONTRACTOR	COSTS	TOTAL
	TYPE				PSF COST
SUPERVISION (Shared)	Est	Colliers		7,111	1.51
TEMPORARY FACILITIES (Shared)	Est	Colliers		1,707	0.36
CLEAN - UP (Shared)	Est	WBM		2,070	0.44
CONCRETE					-
CARPENTRY	Bid	Colliers		400	0.09
CABINETRY & MILLWORK	Bid	Boise Cabinet		6,000	1.28
COUNTER TOPS		Perrigrine		640	-
INSULATION					-
DEMOLITION					-
SEALANTS AND CAULKING					-
DOORS, FRAMES & HDWR	Bid	ABS		9,996	2.13
GLASS & GLAZING		ABS		4,000	-
GYPSUM BOARD ASSEMBLIES	Bid	Idaho Framing		37,400	7.96
CERAMIC TILE					-
ACOUSTICAL CEILINGS					-
FLOOR COVERINGS	Est	Specialty Floors		18,167	3.87
PAINTING	Bid	National Coating		3,100	0.66
WALLCOVERINGS					-
WALL TALKERS					-
TOILET ROOM ACCESSORIES					-
FIRE EXTINGUISHERS	Est			1,000	0.21
WINDOW COVERINGS	Est			250	-
FIRE SPRINKLERS	Bid	DeBest		11,075	2.36
PLUMBING	Est	DeBest		2,500	0.53
HVAC	Bid	Hobson		17,000	3.62
ELECTRICAL	Bid	Romar		70,000	14.90
FIRE ALARM SYSTEM	Inc in Electrical				-
SECURITY SYSTEM	Est	Simplex		2,000	0.43
SIGNAGE					-
APPLIANCES					-
AUDIO VIDEO					-
DATA / PHONE	Allow	System Tech		25,550	5.44
GENERAL CONDITIONS (Shared)	Est	Colliers		3,038	0.65
CONTINGENCY	Allow			11,150	2.37
<b>Total Direct Construction Costs</b>				<b>234,154</b>	<b>49.84</b>
Change Orders per Log	Est		None		-
<b>Total Change Orders</b>					<b>-</b>

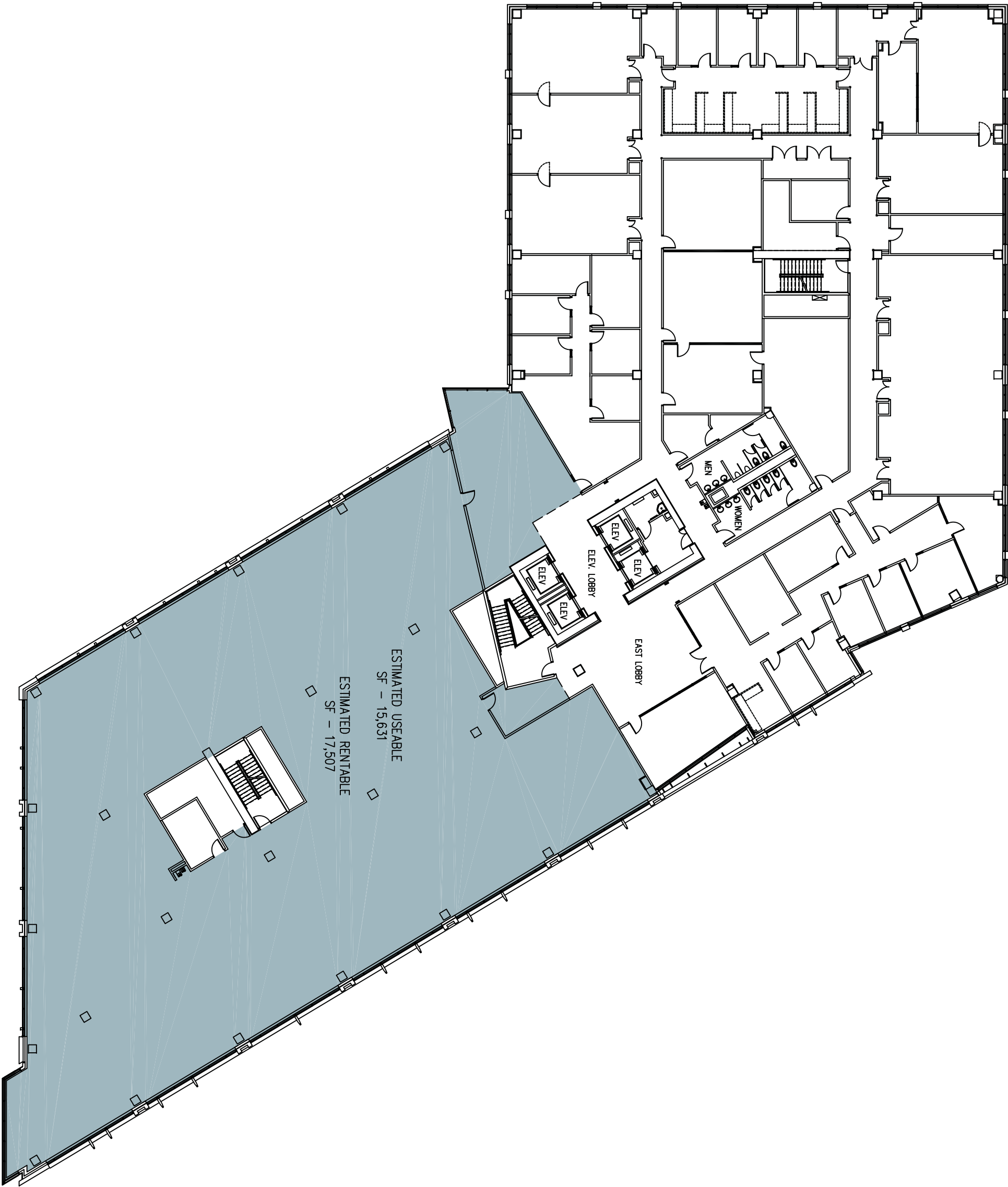


**CH2MHILL 5TH FLOOR**  
Preliminary Construction Budget

**October 10, 2006**

Version 4 (Preliminary Draft Combined Projects)

Contracted Architecture (Shared)	Est	ZGA	3,896	0.83
Interior Design	Est	None		-
Permit Fee	Est	ISBA	282	0.06
<b>Total Architectural/Permit Costs</b>			<b>4,178</b>	<b>0.89</b>
Project Management Fee	Est	Colliers	9,366	1.99
<b>Total Construction Management Costs</b>			<b>9,366</b>	<b>1.99</b>
<b>Total Estimated Project Costs</b>			<b>247,698</b>	<b>52.72</b>

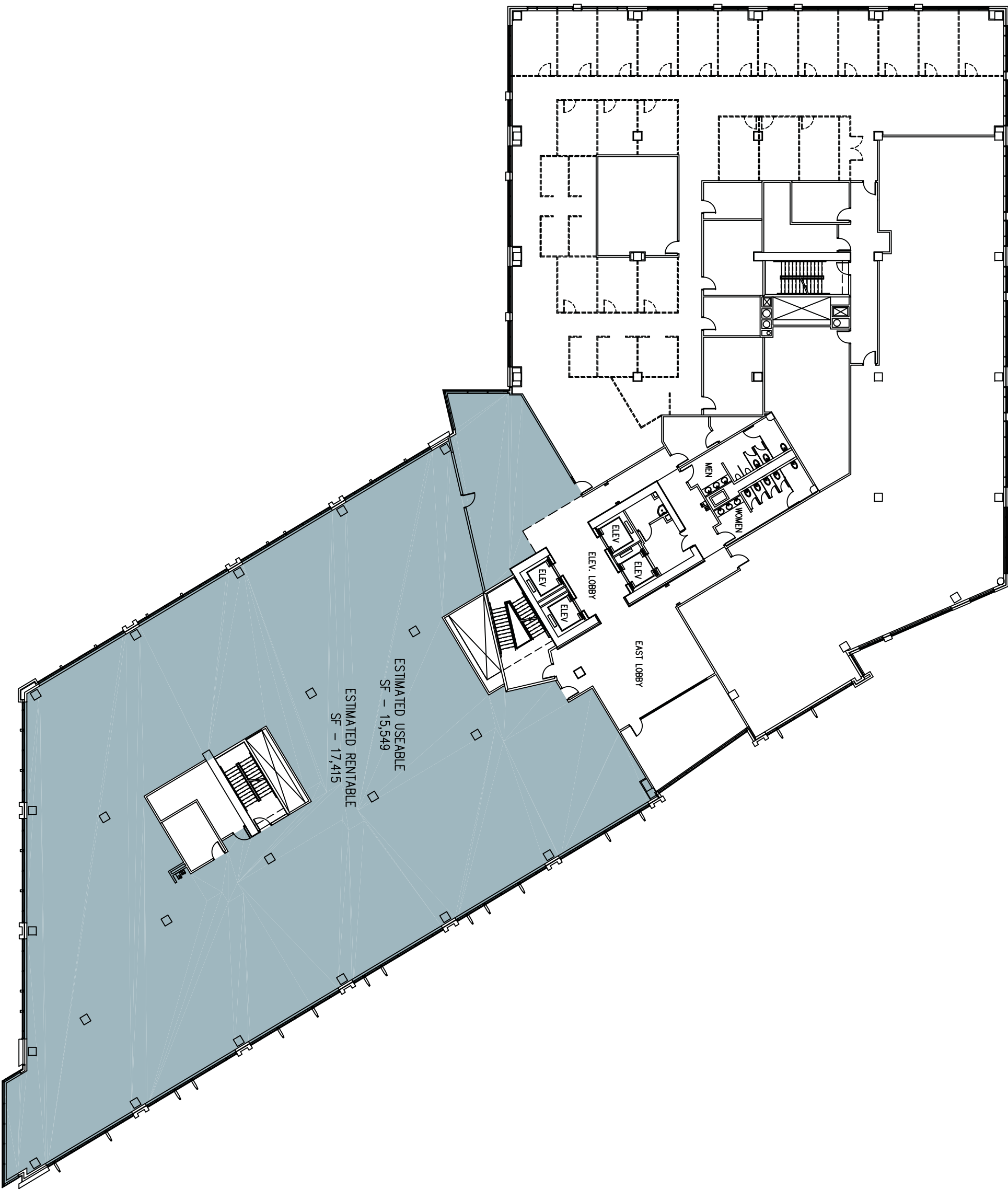


Idaho Water Center - #778  
Premises - "Exhibit 3B"  
Second Floor  
NOT TO SCALE  
09 September 2009



Idaho Water Center - #778  
Premises - "Exhibit 3B"  
Third Floor  
NOT TO SCALE  
09 September 2009

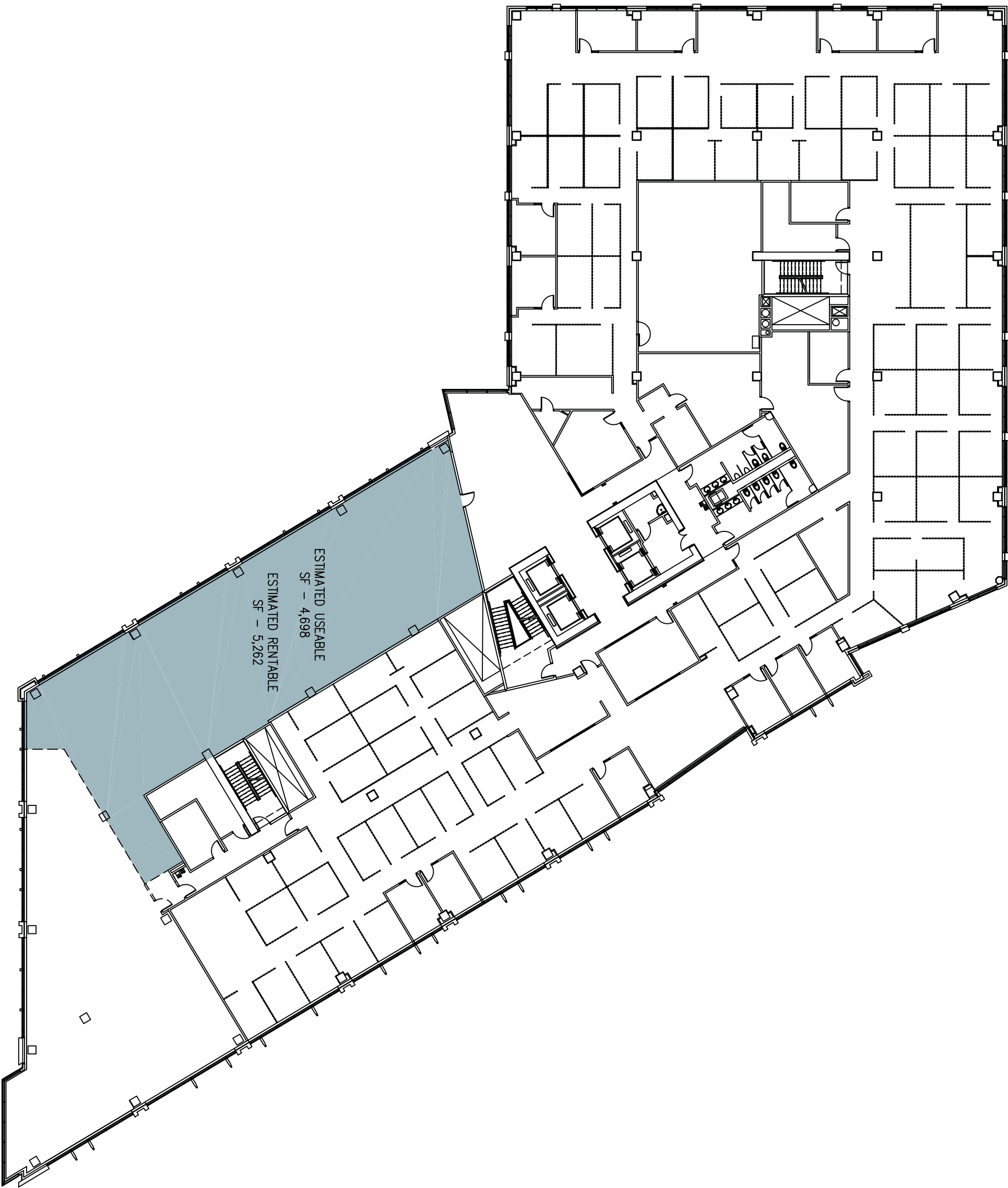




Idaho Water Center - #778  
Premises - "Exhibit 3B"  
Fourth Floor  
NOT TO SCALE  
09 September 2009

**Exhibit 3C****Budgeted 2010 Operating Expenses**

<b>Recoverable Expenses</b>	<b>Totals</b>
Alarm and Security	32,132
Professional Services	159,474
Grounds Maintenance	19,625
Utilities	214,914
Repairs and Maintenance	188,503
Janitorial and Interiors	241,419
Insurance	47,400
Real Estate Taxes	0
<b>Total Recoverable Expenses</b>	<b>903,467</b>



Idaho Water Center - #778  
Potential Expansion Space - Exhibit 3F  
Fifth Floor  
09 September 2009  
NOT TO SCALE



**Exhibit 3G**

**Tenant Improvements**

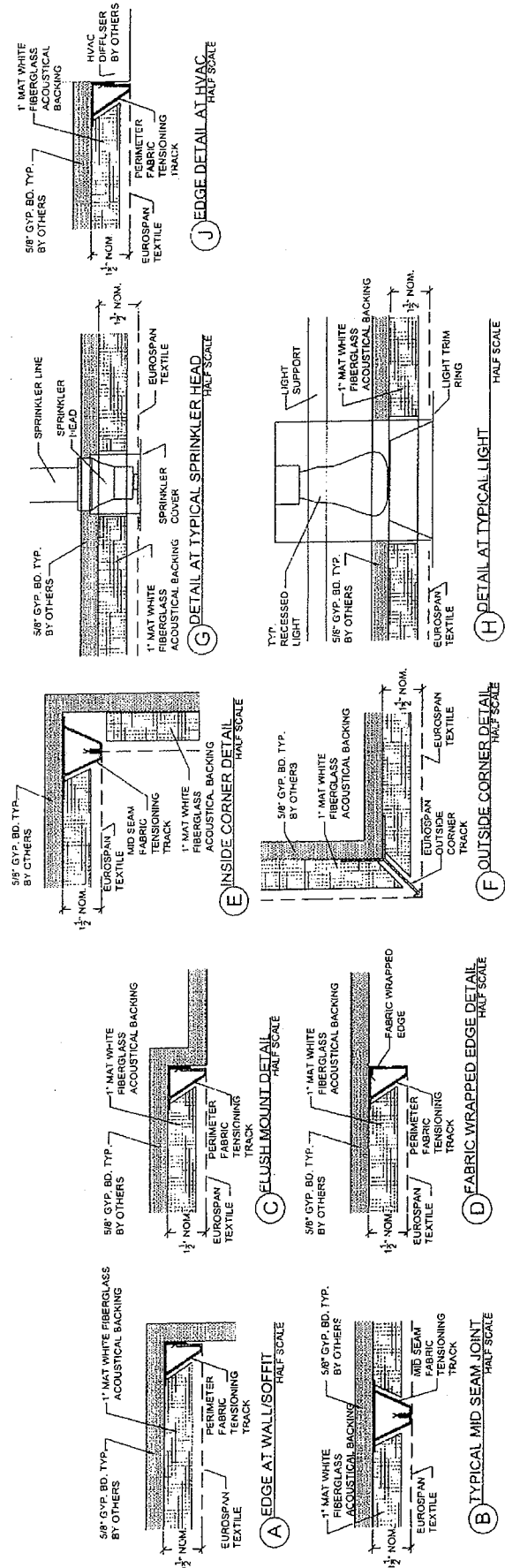
1. Replace 3 dishwashers with Whirlpool DU1055XTSQ-W/W DISH
2. Repaint Premises in VOC-free paint
3. Clean all carpets within Premises.
4. Perform acoustic improvements to the Reynolds, Binnion and Krumsick Rooms. The scope of the acoustic improvements shall be limited to the following from Innovative Interiors & Construction – Tenant’s contractor – as well as associated HVAC, electrical and/or fire sprinkler modifications that may become necessary.



**BID CONFIRMATION**  
Project: CH2M Hill Boise

Date: September 1, 2009

Customer: Colliers International  
Attn: Pete Conlon  
Quote Sent Via Email



**Eurospan Ceiling System Details**

Scope of Work:      Furnish and install a 1-3/8" Eurospan stretch ceiling system over existing drywall ceilings. Fabric to be standard white. Please see product data and links attached to this email for additional information, acoustical absorption properties, etc. The system quoted has an NRC of between .80 and .90, this should be more than is required to bring the reverb levels in these rooms to an acceptable level.

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**UNIVERSITY OF IDAHO**

**SUBJECT**

Conveyance of a building and granting of a ground lease to Idaho Public Television (IPTV)

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.I.5.b(1) and (3)

**BACKGROUND/DISCUSSION**

The University of Idaho (UI) is seeking to convey the building that houses IPTV's equipment on Paradise Ridge to IPTV and to simultaneously grant to IPTV a ground lease for the building.

In 1968, the Regents acquired 3.7 acres on Paradise Ridge south of Moscow to be used as the site for the television transmission tower and equipment building for UI's KUID. After KUID's management and operation was assigned to what is now Idaho Public Television in 1981, the land and building were retained by the Regents and the facilities were utilized by IPTV. Eventually IPTV replaced the existing tower with the tower that IPTV now owns and operates on the site. IPTV and Northwest Public Radio own and exclusively utilize the equipment within the equipment building.

The University of Idaho proposes to convey the equipment building (see attached photos) to IPTV so that maintenance and operation responsibility for that facility is held by the entity utilizing the structure. The replacement cost for the remote and deteriorating equipment storage building is estimated to be \$95,000.

Additionally, to more precisely define the responsibilities of the parties with regard to the site obligations, and to ensure UI retains its long term ownership interest in this property, UI is proposing to grant a twenty year ground lease to IPTV for the ground that the building sits on and to include all Regents' property used for IPTV's operations on Paradise Ridge. Due to the benefit to UI programs in journalism and mass media from IPTV's local operations and IPTV's cooperation with UI programmatic interests, UI is proposing that no rent shall be charged under the lease in consideration of the in-kind benefits. The lease will provide IPTV with the interests necessary to manage the facility and any possible co-location of other broadcast and telecommunications transmitters.

**IMPACT**

The equipment building has minimal useful value to UI except for its use in association with IPTV and the transmission tower. It was constructed to perform the functions now conducted by IPTV. UI does not use the building for any purpose. Due to the value of equipment stored within the building, proper care

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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and maintenance of the building is essential for IPTV and the building itself is essential to IPTV's operations in north-central Idaho. Due to IPTV's need for, and use of, the building, it is appropriate for IPTV to own and assume full responsibility for the building. Completion of both elements of this transaction will allow for the use of the building and associated risks thereof to be more appropriately aligned in the same party, while still retaining the Regent's interest in the underlying real property.

**ATTACHMENTS**

Attachment 1 – Photos of Equipment Building	Page 3
Attachment 2 – Proposed Quitclaim Deed for Building	Page 5
Attachment 3 – Proposed Site Lease for Transmission Tower	Page 7

**STAFF COMMENTS AND RECOMMENDATIONS**

This property conveyance and real property lease realigns the parties' interests in the respective properties to be consistent with current uses. The University and its students will continue to enjoy the educational benefits of IPTV's operations.

Staff recommends approval.

**BOARD ACTION**

A motion to authorize the University of Idaho and IPTV to complete the transaction, including the conveyance of the building and ground lease, and to authorize the Vice President for Finance and Administration of the University to execute a quitclaim deed and ground lease in substantial conformance to the drafts submitted as part of this request, and any other documents associated with the above authorized transactions.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

**ATTACHMENT 1 - PHOTOS**





**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**ATTACHMENT 1 - PHOTOS**



## QUITCLAIM DEED

THIS QUITCLAIM DEED made this \_\_\_\_ day of \_\_\_\_\_, 2009, between THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, a body politic and corporate organized and existing under the laws and Constitution of the State of Idaho, whose address is Moscow, Idaho 83844-3168, herein referred to as “**Grantor**,” and IDAHO PUBLIC TELEVISION, by and through the Idaho State Board of Education, whose address is 1455 N Orchard St, Boise ID 83706, and herein referred to as “**Grantee**”:

That Grantor, for good and valuable consideration, the receipt whereof is hereby acknowledged, does hereby REMISE, RELEASE, and QUITCLAIM, unto Grantee and its successors and assigns forever, all of Grantor’s right title, and interest in and to the real property improvements and personal property located within the north half of Section 33, Township 39 North, Range 5 West, Boise Meridian, Latah County, Idaho described as follows:

Beginning at a point 17.0 feet North of the Northeast Corner of the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼) of Section Thirty-three (33), Township Thirty-nine (39) North, Range Five (5) West Boise Meridian, and running thence South 47° 30’ West a distance of 583.3 feet, thence South 42° 30’ East a distance of 400.0 feet, thence North 47° 30’ East a distance of 216.7 feet to a point on the East line of said Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼) of Section Thirty-three (33), thence North a distance of 542.5 feet on said East line to the point of beginning, and containing 3.673 acres, more or less. Property does not include the land described above, only the real property improvements and personal property.

Together with all estate, right, title, interest, property, possession, claim and demand whatsoever, as well as in law as in equity of the Grantor in or to the said property, and all and singular the tenements, hereditaments, and appurtenances thereunto belonging.

IN WITNESS WHEREOF, Grantor has hereunto set its hand on the day and year first above written.

**GRANTOR:**

**Board of Regents of the University of Idaho**

By: \_\_\_\_\_  
 Lloyd E. Mues, Vice President,  
 Finance & Administration  
 University of Idaho

STATE OF IDAHO )  
 ) ss.  
County of Latah )

On this \_\_\_\_ day of \_\_\_\_\_, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared Lloyd E. Mues, known to me to be the Vice President for Finance & Administration of the University of Idaho, the University that executed the instrument, and acknowledged to me that he executed the same for and on behalf of the Board of Regents of the University of Idaho.

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

Notary Public for Idaho  
Residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**SITE LEASE**

THIS SITE LEASE is entered into as of the 1st day of November, 2009, by and between THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, a state educational institution and body politic and corporate organized and existing pursuant to the Constitution and laws of the State of Idaho ("Landlord") and IDAHO PUBLIC TELEVISION by and through the Idaho State Board of Education, ("Tenant"). This agreement is hereinafter referred to as the "Lease".

**RECITALS**

A. Landlord is the owner of certain real property beginning at a point 17.0 feet North of the Northeast Corner of the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼) of Section Thirty-three (33), Township Thirty-nine (39) North, Range Five (5) West Boise Meridian, and running thence South 47° 30' West a distance of 583.3 feet, thence South 42° 30' East a distance of 400.0 feet, thence North 47° 30' East a distance of 216.7 feet to a point on the East line of said Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼) of Section Thirty-three (33), thence North a distance of 542.5 feet on said East line to the point of beginning, and containing 3.673 acres, more or less ("Premises"). The Landlord desires to enter into a ground lease for the Premises with Tenant. Said Lease to commence as of November 1, 2009; and

B. Premises are currently improved with a transmission tower and equipment building owned by Tenant; and

C. Landlord and Tenant agree that Premises shall continue to be maintained and utilized for purposes of broadcast of radio and television signals associated with Landlord's mission and related communications, journalism and mass media programs; and

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. **Recitals:** The parties acknowledge the foregoing Recitals are true and are incorporated into this Lease as if set forth in full.

2. **Premises:** Landlord hereby leases to Tenant, subject to the conditions expressed herein, certain real property located in Latah County, Idaho, specifically described in Recital A. As used herein the term "Premises" refers solely to the real property, but does not include the existing communications related improvements.

3. **Term:** Except as early termination is provided in paragraph 20 of this Lease, this Lease shall be effective from the date entered into and shall expire on June 30, 2029.

4. **Rent:** The Premises are leased to the Tenant without a requirement for payment to Landlord, but the estimated market value of such entitlement to use Premises shall be deemed

as an in-kind contribution from Landlord to Tenant. The value of such contribution shall be determined by Tenant in the event such contribution may make Tenant eligible for additional program funding from third parties. In the event such value is reported to a third party, Tenant shall also report that value and any supporting analysis (i.e. appraisal or market estimate report) to Landlord upon request by Landlord.

5. **Development:** Tenant shall have the right to maintain and repair existing structures at Tenant's expense. Tenant shall not be permitted to construct new structures or replace existing structures (in the event of the transmission tower's substantial destruction), without the written consent of Landlord. If Landlord fails to grant such consent within thirty days of Tenant's written request to replace destroyed equipment building and/or transmission tower, this Lease shall be deemed terminated upon the date of the destruction and Tenant shall surrender premises as provided by Section 6 below within 180 days of such destruction of the transmission tower.

6. **Surrender of Premises:** By no later than the date of termination of Lease (or as provided in Section 5 in the event of destruction of the transmission tower), Tenant shall, at Tenant's sole cost and expense, remove or cause to be removed all buildings, structures, foundations, footings, materials signs or signboards, debris or other articles or facilities owned or used by Tenant or subtenant (if any) or placed on, above or below the surface of the Premises by Tenant or subtenant or former tenant or subtenant. Tenant agrees to restore and level Premises to a condition reasonably satisfactory to Landlord. Tenant shall not be entitled to compensation for any value attributed to the buildings or improvements removed under the terms of this Lease. Tenant shall remove Tenant's and subtenants' personal property from Premises.

7. **Taxes:** Tenant shall pay all applicable taxes, license fees, special assessments or other charges (if any) which may become due or which may be lawfully assessed against Premises, against Tenant, against the business conducted on Premises and against any and all improvements thereon during or for the period of the term of this Lease even if such charges are not due and payable until after termination of this Lease.

8. **Right to Sublet and Assign:** Tenant only may assign this Lease or sublet the Premises, or any part or portion thereof, with the prior written consent of Landlord. Any assignment of this Lease or any subletting of the Premises shall be subject to all of the provisions and limitations of this Lease including (but not limited to) the term and permitted uses of this Lease. Notwithstanding any assignment, Tenant shall continue to be bound and obligated by the terms, conditions, covenants and provisions of this Lease until the assignee shall execute and deliver to Landlord an instrument by the terms and provisions of which such assignee shall assume and agree to be bound by and to perform all of the terms, conditions, covenants and obligations of Tenant under this Lease. Upon the execution and delivery of such instrument, Tenant shall be relieved and discharged of and from all obligations under this Lease accruing from and after the date of execution of the instrument. Unless otherwise assumed by the assignee and such assumption is enforceable by Landlord, no assignment of this Lease shall release, waive or discharge Tenant from any liability or obligation arising from or accruing prior to the date any assignee assumes and agrees to be bound by and to perform all of the terms, conditions, covenants and obligations of Tenant under this Lease. Landlord's consent to one

assignment shall not waive Tenant's obligation to obtain Landlord's consent or Landlord's right to object to any future assignment. Notwithstanding any sublease, Tenant shall continue to be bound and obligated by the terms, conditions, covenants and provisions of this Lease for all of the Premises. Landlord expressly consents to a sublease to Northwest Public Radio, a service of Washington State University, provided such sublease is first reviewed by Landlord and is consistent with this paragraph 8 and paragraph 11 herein.

In the event of sale, transfer or assignment by Landlord of Landlord's interest in the property on which the Premises are located, Landlord shall cause such successor in interest to expressly assume in writing all of Landlord's duties and obligations pursuant to this Lease. Upon receipt of such assumption by the successor in interest, Landlord shall be released from any and all obligations or duties arising under this Lease.

9. **Permitted Uses:** Tenant shall use and occupy Premises for the sole and exclusive purpose of maintaining and operating a television and/or radio signal broadcast site. Additionally, such broadcast of radio and television content shall be associated and consistent with Landlord's educational and outreach mission for its academic programs in journalism and mass media production and such association shall provide educational and professional experiences supporting such University of Idaho outreach and degree programs and related technology applications and development. Notwithstanding any other provisions of this Lease, Tenant shall be wholly responsible for compliance with applicable laws and regulations regarding content and licensing including, but not limited to, compliance with all applicable requirements of the Federal Communications Commission (FCC). Landlord will cooperate as needed with any FCC requirements, however, all costs associated with FCC and any other compliance shall be the responsibility of Tenant.

10. **Utilities:** Tenant agrees to pay all utilities required by Tenant for the use of Premises.

11. **Indemnification and Insurance:** Landlord and Tenant have liability coverage provided through a self-funded program administered by the Idaho State Office of Insurance Management. Both parties agree that Tenant does not have to provide a certificate of insurance or additional insured endorsements. Any and all costs for claims, damages and other expenses incurred in or from any obligation to be performed under the Agreement by the Tenant or Landlord, or arising out of any act, negligence or omission of the Tenant or Landlord will remain the responsibility of the party whose actions gave rise to the claim. Any assignment or sublease shall include indemnification and insurance provisions acceptable to Landlord.

12. **Property Encumbrances:** This Lease is subject to all applicable restrictions, reservations, limitations, and other rights of record, and is subject to any and all easements for public utilities of record.

13. **Hazardous Materials:** Tenant shall not, nor shall it allow others to, accumulate, use, or store on the Premises materials classified as hazardous, biomedical or toxic waste except in compliance with environmental laws and other applicable state, federal, or local laws, rules or regulations. Tenant shall comply and require subtenants to comply with



any lawful order by an entity with authority to regulate the use, accumulation, storage or disposal of hazardous waste. As used herein, the term "environmental laws" shall mean the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (CERCLA), the Resource Conservation Recovery Act, as amended (RCRA), the Federal Water Pollution Control Act, the Clean Air Act and any similar local, state or federal law, rule, ordinance or regulation. As used herein, the term "hazardous materials" shall mean any hazardous substance, pollutants, contaminants, or other hazardous waste or toxic substances defined in any environmental laws including, without limitation, petroleum and petroleum products, asbestos and asbestos containing materials, PCBs and urea-formaldehyde.

Tenant hereby agrees to indemnify, defend, and hold Landlord harmless from and against any and all claims, damages, liabilities, costs, expenses (including reasonable attorneys' fees), causes of action and judgments arising out of or related to hazardous materials existing in, or under the Premises subsequent to Tenant's occupation of the Premises. Tenant shall not be liable for any pre-existing conditions on the Premises or conditions occurring during Landlord's use of the Premises.

14. **Waste and Nuisance Prohibited:** Tenant shall comply, during the term of this Lease, with all applicable laws affecting the Premises, the violation of which might result in any penalty assessed upon the Landlord or forfeiture of the Landlord's title to Premises. Tenant shall not commit, or suffer to be committed, any waste on the Premises or improvements, or any nuisance.

15. **Remedies and Forbearance/Waivers:** No delay or omission on the part of the Landlord or Tenant to exercise any right or power granted herein shall impair any such right or power or shall be construed as a waiver thereof, and every such right or power may nevertheless be exercised.

16. **Officials, Agents, and Employees Not Personally Liable:** It is agreed that in no event shall any official, officer, employee or agent of the Landlord, nor any official, officer, employee or agent of the Landlord be in any way personally liable or responsible for any covenant or agreement herein contained, whether expressed or implied, nor for any statement, representation or warranty made herein or in any way connected with this Lease.

17. **Quiet Enjoyment:** Subject to the terms and conditions explicit in this Lease, Landlord covenants that Tenant shall have the peaceful and quiet enjoyment of Premises for the term of the Lease.

18. **Right of Entry:** Tenant shall permit the Landlord and the agents and employees of the Landlord to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same for compliance with the terms of this Lease; provided, however, that Landlord shall first give twenty four (24) hours written notice of its desire to enter any Tenant improvements on Premises. Such notice for right of entry and inspection procedures shall not apply during an emergency in which such notice is impractical and Landlord's access to Premises is necessary for preservation of life and/or property.

19. **Tenant's Right to Early Termination:** Tenant shall have the right to terminate this Lease early at any time with written notice to Landlord. Such early termination shall be subject to the provisions of Section 6 of the Lease.

20. **Default:** In the event Landlord shall at any time deem Tenant or any subtenant in breach of this Lease, Landlord shall promptly notify Tenant, in writing, stating specifically the nature of any such alleged breach. Tenant shall not be deemed to be in default hereunder unless Tenant fails to cure any such default within sixty (60) calendar days after its receipt of such written notice. In the event of default, Landlord shall have the right to terminate Lease in addition to all rights and remedies provided by law.

21. **Attorney Fees and Costs:** In the event that either party to this Lease shall enforce any of the provisions hereof in any action at law or in equity the prevailing party to such litigation shall be entitled to recover from the other party or parties all costs and expenses, including reasonable attorney fees, incurred therein.

22. **Integration:** This Lease embodies the entire agreement regarding the disposition of the rights associated with the Premises and represents the understanding of the parties relating to the subject matter herein and supersedes all prior understandings relating thereto. This Lease shall not be modified except in writing signed by all parties to be bound.

23. **Execution of Documents:** The parties agree that they shall sign or cause to be signed all documents necessary to the effectuation of this Lease or any of the provisions herein.

24. **Authority to Enter Lease:** Landlord has the authority to enter into this Lease and that the execution, delivery of this Lease and the performance of the contractual obligations set forth herein are not in violation of any federal, state, or local statute, ordinance, rule or regulation and that no consents not already obtained are required. Individuals signing on behalf of Landlord and Tenant have the delegated authority to obligate their respective entity as provided by this Lease.

24. **Notices:** All notices under this Lease shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the date of mailing if mailed to the party to whom notice is to be given by registered or certified United States mail, postage prepaid, and properly addressed as follows:

If to the Landlord: Regents of the University of Idaho  
Attn: Vice President, Finance and Administration  
University of Idaho  
Moscow ID 83844-3168

If to the Tenant: Idaho Public Television  
1455 N Orchard St  
Boise ID 83706

The addresses provided above may be changed and additional addresses or notices may be specified from time to time by notice given in writing in accordance with this Section.

25. **Binding Effect:** This Lease shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors and assigns of the parties.

26. **Severability:** If any term or provision of this Lease or the application of it to any person or entity or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons, entities or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and shall be enforced to the extent permitted by law.

27. **Headings:** Section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provisions of this Lease.

28. **Counterparts:** This Lease 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.

29. **Time of the Essence:** Time is of the essence in this Lease, and of each and every covenant, term, condition, and provisions thereof.

30. **Nondiscrimination and Affirmative Action:** Landlord and Tenant shall not discriminate against any employee or applicant for employment in the performance of this Lease, with respect to tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, sex, color, religion, age, status as disabled or a veteran, or physical or mental handicaps, national origin or ancestry. Breach of this covenant may be regarded as a material breach of this Site Lease. Landlord and Tenant certify that they do not, and will not maintain segregated facilities or accommodations on the basis of race, color, religion or national origin. Regarding any position for which an employee or an applicant is qualified, the Landlord and Tenant agree to take affirmative action to employ, train, advance in employment, and retain individuals in accordance with applicable laws and regulations including:

A) For nondiscrimination based on race, color, religion, sex or national origin, this includes, but is not limited to, the U.S. Constitution, and Parts II and IV of Executive Order 11246, September 24, 1965 (30 FR 12319). Grantee disputes related to compliance with its obligations shall be handled according to the rules, regulations, and relevant orders of the Secretary of Labor (See 41 CFR 60-1.1).

B) For nondiscrimination based on Disabled or Vietnam Veterans this includes, but is not limited to, the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended (38 U.S.C. 4012)(the Act); Executive Order 11701, January 24, 1973 (38 CFR 2675, January 29, 1973); and the regulations of the Secretary of Labor (41 CFR Part 60-250).

C) For nondiscrimination based on the Handicapped this includes, but is not limited to, Section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793)(the Act);



Executive Order 11758, January 15, 1974; and the regulations of the Secretary of Labor (41 FR Part 60- 741).

D) For nondiscrimination based on Age this includes, but is not limited to, executive Order 11141, February 12, 1964 (29 CFR 2477).

E) Landlord and Tenant shall include the terms of this clause in every subcontract or purchase order exceeding \$50,000 and shall act as specified by the Department of Labor to enforce the terms and implement remedies.

31. **Venue, Governing Law:** Any legal proceeding instituted between the parties shall be in the courts of the County of Latah, State of Idaho, and each of the parties agrees to submit to the jurisdiction of such courts. It is further agreed that this Agreement shall be governed by the laws of the State of Idaho.

32. **No Warranties or Representations Regarding Permissibility of Use and Access:** LANDLORD MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY ASPECT, FEATURE OR CONDITION OF PREMISES REGARDING THE SUITABILITY OR PERMISSIBILITY OF PREMISES FOR TENANT'S OR ANY SUBTENANT'S INTENDED USE. LANDLORD DOES NOT WARRANT THE EXISTENCE OF ANY RIGHTS OF INGRESS OR EGRESS FOR THE PREMISES FOR TENANT OR ANY SUBTENANT AND ANY SUCH RIGHTS FOR TENANT OR SUBTENANTS SHALL BE ESTABLISHED OR VERIFIED TO THE EXTENT TENANT OR SUBTENANT DEEMS NECESSARY TO BENEFIT FROM THE TERMS OF THIS LEASE OR ANY SUBLEASE.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed effective as of the day and year first above written.

**LANDLORD:**

**TENANT:**

BOARD OF REGENTS OF THE  
UNIVERSITY OF IDAHO

IDAHO PUBLIC TELEVISION

By \_\_\_\_\_  
Lloyd E Mues, Vice President  
Finance and Administration

By \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**ITEM PULLED FROM AGENDA**



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**LEWIS-CLARK STATE COLLEGE**

**SUBJECT**

Lewis Clark State College (LCSC) requests Board permission to accept a gift of two properties from the LCSC Foundation

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Sections V.I.2.c. and V.I.2.d  
Section 33-3714, Idaho Code

**BACKGROUND/DISCUSSION**

The two properties in question are the Center for Arts and History (CAH) building, located on Main St. in Lewiston, and the North Lewiston Training Center (NLTC) building, located on property leased from the Port of Lewiston. Both of these facilities have been occupied and used solely by LCSC since their acquisition by the LCSC Foundation.

The Center for Arts and History (CAH) facility is a bank building donated to the LCSC Foundation in March 1991 (for \$10) by First Security Bank of Idaho. The Foundation has made the building available to the College since that time, and it has housed Community Programs offices and been the venue for permanent and rotating historical and art exhibits. LCSC operates as the “de facto” owner of the facility, providing personnel, equipment, maintenance, and remodeling of the building as required. The insured value of the property is \$1.7M.

The North Lewiston Training Center is an 83’ by 56’ manufactured facility which was donated by DeAtley Co., Inc., to the LCSC Foundation in October 1999. The NLTC now houses LCSC’s Workforce Training Division. Like the CAH, the NLTC staff, furniture, fixtures, and equipment are provided by the College. The unit is located adjacent to the College’s motor safety training center (skid pad) on property leased from the Port of Lewiston. The property is insured for \$360K.

Because of its interest in these two properties which house LCSC personnel and programs, the College insures and maintains them. The LCSC Foundation determined that there is no reason to delay formal transfer of the properties to LCSC, and the College agrees that it makes good sense to legally complete the transfer of the facilities to the College. On July 28, 2009, The Foundation approved the gift of the two facilities to LCSC, subject to State Board of Education approval. Transfer of the properties to the College will be transparent in terms of the day-to-day use of the facilities, and will give LCSC greater flexibility to manage, upgrade, or, eventually, dispose of the properties, to best meet the interests of the College. LCSC does not envision a change in the current usage of either facility for the near future.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**IMPACT**

Acceptance of the gift of these two properties would formalize functional transfers that, for practical purposes, took place in the 1990s. There would be no deleterious impacts on LCSC operations, and the College would have greater flexibility for operations and future modifications/upgrades of the facilities.

**ATTACHMENTS**

Attachment 1 – Photo of Center for Arts and History (CAH)	Page 3
Attachment 2 – Floor Plan CAH 1 <sup>st</sup> Floor	Page 4
Attachment 3 – Floor Plan CAH 2 <sup>nd</sup> Floor	Page 5
Attachment 4 – CAH Deed	Page 6
Attachment 5 – Photo of North Lewiston Training Center (NLTC)	Page 9
Attachment 6 – Floor Plan NLTC	Page 10
Attachment 7 – NLTC Deed	Page 11

**STAFF COMMENTS AND RECOMMENDATIONS**

The proposed LCSC Foundation Operating Agreement includes provisions for the Foundation to accept real property as charitable contributions, but it does not speak to transfers of real property to the institution except for the Dissolution section, which is not applicable. As such, this gifting and conveyance of property is not in conflict with the Foundation Operating Agreement.

For all practical purposes, the College already occupies and operates the Center for Arts and History property and the North Lewiston Training Center building. As such, this transaction will align ownership consistent with current management practices.

Staff recommends approval.

**BOARD ACTION**

A motion to approve the request by Lewis-Clark State College to accept the gift of the Center for Arts and History building and the North Lewiston Training Center facility from the LCSC Foundation, and to authorize the College's Vice President for Finance and Administration to sign the associated property transfer documents in the name of the State of Idaho on behalf of the State Board of Education in its capacity as the Board of Trustees for the LCSC.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_



**BUSINESS AFFAIRS AND HUMAN RESOURCES  
OCTOBER 15, 2009**

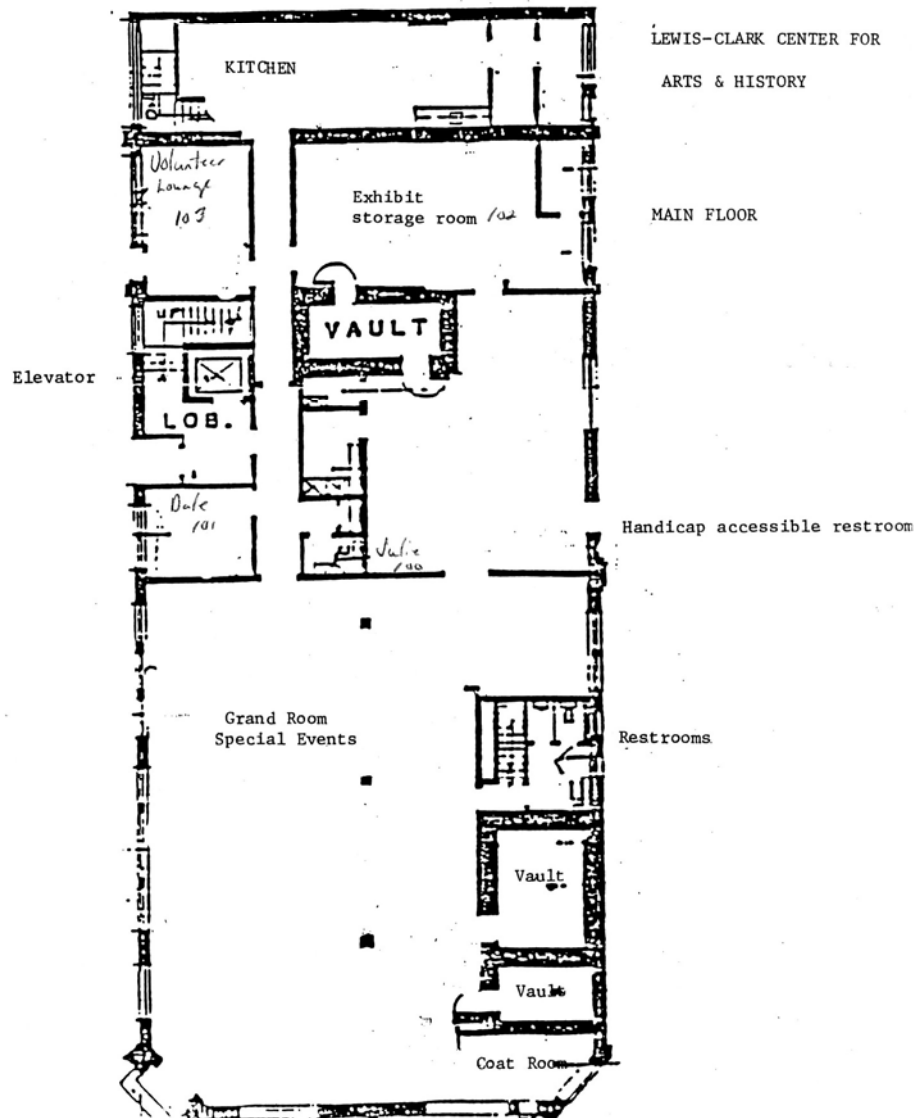
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**ATTACHMENT 1**



BUSINESS AFFAIRS AND HUMAN RESOURCES  
OCTOBER 15, 2009

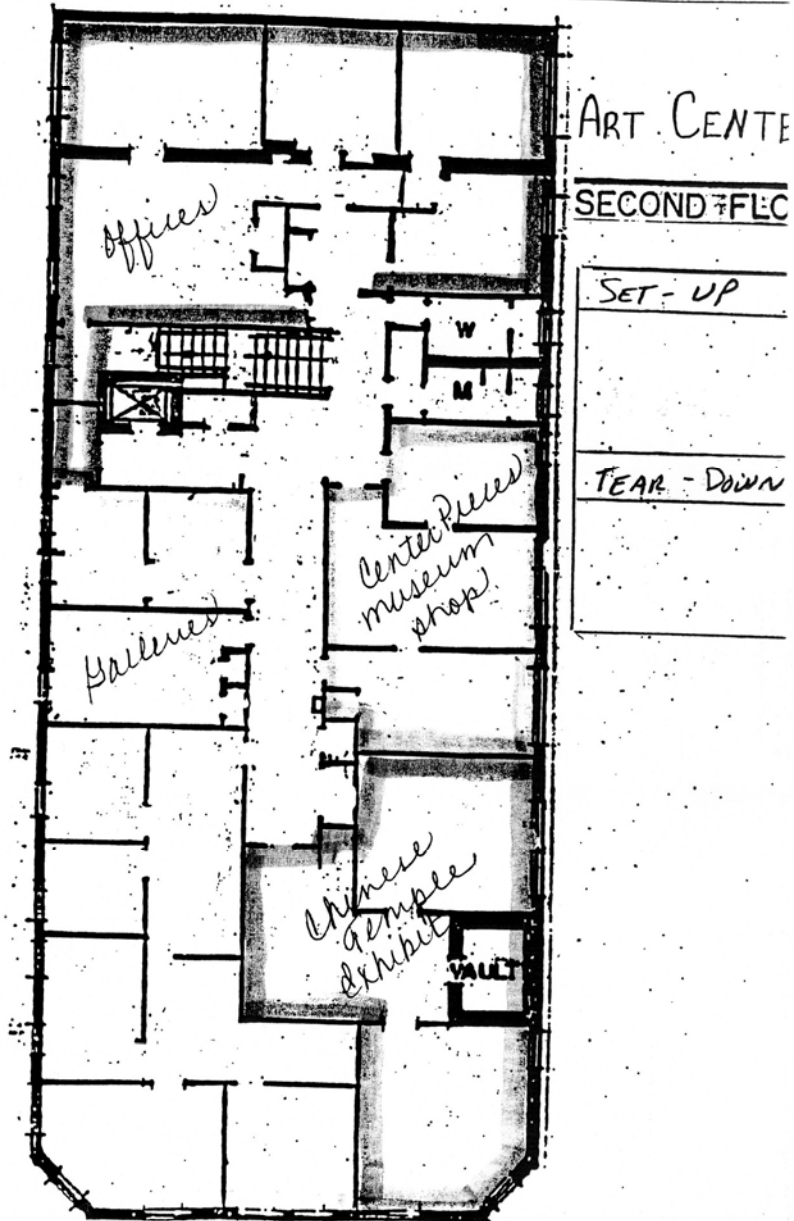
ATTACHMENT 2



BUSINESS AFFAIRS AND HUMAN RESOURCES  
OCTOBER 15, 2009

ATTACHMENT 3

Access time: \_\_\_\_\_ Event name: \_\_\_\_\_  
Event time: \_\_\_\_\_ Rooms: \_\_\_\_\_  
Dining set-up: \_\_\_\_\_  
Contact Person/Number: \_\_\_\_\_  
Confirmation: \_\_\_\_\_





INST. NO. **549636**  
 FILED FOR RECORD  
 FEE 9.00 REG. BY Robert Brown  
PO Box 1510, City  
 91 APR -2 PM 4:34  
 BETTY J. WILSEY  
 RECORDER, NEZ PERCE CO. ID  
 BY Mary Lee DEPUTY  
 RECEIVED  
 INDEXED  
 FILED  
 DELIVERED  
 MAILED A

## D E E D

THIS INDENTURE, made this 28<sup>th</sup> day of March, 1991, by and between FIRST SECURITY BANK OF IDAHO, N.A., party of the first part, and LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, a non-profit Idaho corporation, party of the second part, of Eighth Avenue and Sixth Street, Lewiston, ID 83501,

## WITNESSETH:

That party of the first part, for and in consideration of the sum of Ten Dollars (\$10), lawful money of the United States of America, and other good and valuable considerations to it in hand paid by said party of the second part, the receipt and sufficiency of all of which is hereby acknowledged, has bargained and sold, and, by these presents, does hereby sell, assign, transfer, convey and confirm unto party of the second part, its successors and assigns, the following-described real property, situate in Nez Perce County, State of Idaho, and more particularly described as follows, to-wit:

## Parcel No. 1:

Lot No. 1 and the East 20 feet of Lot No. 2, both in Block 22 of the original City of Lewiston, according to the recorded plat thereof filed for record July 1, 1879, recorded in Volume 25 at pages 1 and 3 of the records in the office of the County Recorder of Nez Perce County, Idaho.

## Parcel No. 2:

The following described property being West of Lot 1, Block 21, City of Lewiston, according to the recorded

plat thereof: The North line being the South line of "D" Street, the West line being the East line of Fifth Street and the South line being the North line of Main Street, EXCEPT that portion conveyed to the City of Lewiston in Book 145, page 240, Instrument No. 124634; also known as Lots 2, 3, 4 and 5, Block 21; ALSO - Commencing at the Northwest corner of Lot 2, Block 21, City of Lewiston; thence East along the North line of said Lot 2 a distance of 100 feet; thence North 14 feet; thence West 14 feet from and parallel with the North line of said Lot 2 a distance of 100 feet to the East line of Fifth Street; thence South along the East line of said Fifth Street 14 feet to the place of beginning. EXCEPT FROM the foregoing property conveyed to the City of Lewiston in Book 145, page 240, Instrument No. 124634. ALSO Easement Benefits of, and Subject to the Restrictions contained in an agreement with A. B. Russel and others dated April 16, 1906, and recorded in the Recorder's Office of said Nez Perce County in Book "C" of Miscellaneous Records at page 514.

PARCEL NO. 1 BEING SUBJECT, HOWEVER, to the restriction that party of the second part shall not sell, transfer or convey Parcel No. 1 of the above-described real property, or any interest therein (excepting a leasehold interest) during the ten- (10-) year period immediately following the date hereof without first obtaining the written consent of Seller, which consent will not be unreasonably withheld.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and all the estate, right, title, interest, claim or demand whatsoever of said party of the first part, now or hereafter acquired, either at law or in equity, of, in and to the above-bargained premises.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto party of the second part, its successors and assigns forever.



IN WITNESS WHEREOF, said party of the first part has hereunto caused these presents to be executed the day and year first above written.

FIRST SECURITY BANK OF IDAHO, N.A.

BY

Robert S. Mink  
ROBERT S. MINK, Vice President

STATE OF I D A H O )  
: ss.  
County of NEZ PERCE )

On this 28 day of March, 1991, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared ROBERT S. MINK, known to me to be the Vice President of the corporation that executed the within and foregoing instrument and acknowledged to me that such corporation executed the same.

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

Robert P. [Signature]  
Notary Public in and for the State  
of Idaho, Residing at Boise, Idaho  
My Commission Expires: 11/4/93



**BUSINESS AFFAIRS AND HUMAN RESOURCES  
OCTOBER 15, 2009**

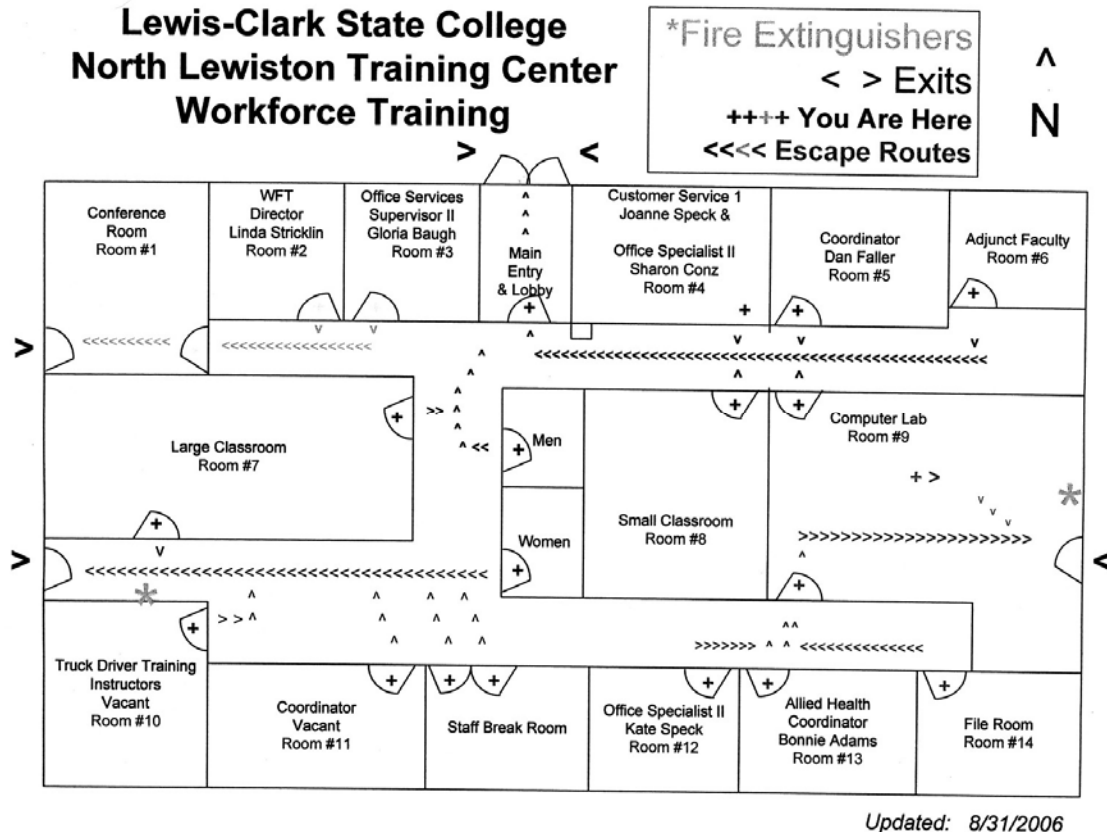
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**ATTACHMENT 5**



**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

**ATTACHMENT 6**



GIFT BILL OF SALE

THIS BILL OF SALE is made and entered into this 29<sup>th</sup> day of October, 1999, by and between DeATLEY CO., INC., hereinafter referred to as "Grantor," and LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, hereinafter referred to as "Grantee,"

## WITNESSETH:

Grantor, for no consideration and as a gift, does hereby gift, assign and transfer to Grantee the following described property, to wit:

One modular office building (approximately 83 feet x 56 feet)

TO HAVE AND TO HOLD unto Grantee and to its successors and assigns forever.

Grantor and Grantee acknowledge that the property has the fair market value as determined by the independent appraisal performed by Steve Rynearson.

Grantor covenants that it is the lawful owner of the above described property and that the same is free and clear of all liens and encumbrances of every kind and that Grantor will WARRANT and DEFEND the title thereto.

In accepting title and possession of the property, Grantee agrees to the following terms and conditions:

1. **DISCLAIMER OF WARRANTIES AND INDEPENDENT INSPECTION.**

GRANTEE HEREBY ACKNOWLEDGES THAT THE BUILDING IS TRANSFERRED "AS IS" AND "WHERE IS" WITH GRANTOR MAKING NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE BUILDING EXCEPT WARRANTY OF TITLE. ALL OTHER WARRANTIES, INCLUDING ANY WARRANTIES IMPLIED UNDER LAW, ARE HEREBY DISCLAIMED BY GRANTOR AND SUCH DISCLAIMER IS ACCEPTED BY GRANTEE.



Grantee represents that Grantee has had the opportunity to conduct and has conducted to Grantee's satisfaction, an independent inspection, investigation, assessment and evaluation of the building and that Grantee is relying solely on the results of Grantee's own inspection, investigation, assessment and evaluation and is not relying upon any representations made by or on behalf of Grantor. Grantee acknowledges and agrees that in accepting the building "as is" and "where is" in its present existing condition, Grantee assumes the risk that adverse past, present or future conditions may not have been disclosed by Grantee's inspection, investigation, assessment or evaluation. Grantee hereby waives any and all objections, and releases any and all claims, with respect to any and all existing conditions of the building, including without limitation, any condition of the building which does not comply with any applicable law and any condition pertaining to hazardous substances or materials in the building.

**2. REMOVAL OF BUILDING FROM GRANTOR'S PROPERTY.**

- A. Within ninety (90) days, Grantee shall cause the building to be completely severed and removed from Grantor's property upon the terms and conditions hereinafter provided. Grantee's work must commence no later than a date which will assure completion of removal within the stated time period.
- B. Grantee's shall utilize only qualified contractors.
- C. Grantee and Grantee's contractors shall comply with all applicable federal, state and local laws and obtain all necessary permits.
- D. Upon Grantor's request, Grantee's contractors shall provide proof of general liability insurance with limits of no less than \$1,000,000.
- E. Grantee and Grantee's contractors shall leave Grantor's property from which the building is removed in a clean and safe condition. Grantee shall not be required to fill the crawl space.
- F. Grantee agrees hereby to indemnify and hold Grantor harmless (within the limits of the Idaho Tort Claims Act) from all claims arising out of Grantee's activities and the activities of Grantee's agents and contractors associated with the severance and removal of the building from Grantor's property and its transportation from the property to its destination.

3. APPRAISAL COST REIMBURSEMENT.


Grantee agrees to reimburse Grantor for the cost of the independent appraisal performed by Steve Rynearson.

IN WITNESS WHEREOF the parties have caused this instrument to be executed the day and year hereinabove first written.

DeATLEY CO., INC.

By   
RON JENSEN

LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND  
DEVELOPMENT FOUNDATION

By   
Title \_\_\_\_\_

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**SUBJECT**

FY2011 Alternation & Repair Project Budget Requests

**REFERENCE**

August 2009

Approved FY2011 Major Capital Budget Requests

**APPLICABLE STATUTE, RULE, OR POLICY**

Section 33-112, Idaho Code

**BACKGROUND/DISCUSSION**

Idaho Code §33-112 requires the State Board of Education (Board) to authorize and approve all plans and specifications for the construction or alteration of buildings at the state educational institutions under its government and control and shall direct and control the purchase of equipment, fixtures and supplies. Each year the institutions and agencies submit budget requests for major capital projects and alteration and repair projects including projects under the American with Disabilities Act, asbestos abatement/removal, building demolition, and underground storage projects.

Major capital projects approved by the Board are forwarded to the Permanent Building Fund Advisory Council (PBFAC), which reviews and prioritizes all capital projects statewide. The legislature appropriates funds to Department of Public Works (DPW) for renovation and repair and other projects. The Governor also makes a recommendation regarding major capital projects to the legislature.

At its August meeting, the Board recommended no major capital funding for FY 2011, but instead asked the PBFAC to concentrate upon Alterations and Repairs and other non-major projects. This agenda provides a detail list of those projects.

**IMPACT**

Only Board-approved capital projects can be forwarded to the PBFAC. The PBFAC, Governor and Legislature will then be informed of the Board's recommendations based upon the priorities indicated (if any), at the Board's discretion.

**ATTACHMENTS**

Attachment 1 - FY2011 Alteration and Repair Projects	Page 3
Attachment 2 - FY2011 Americans with Disabilities Act Projects	Page 7
Attachment 3 - FY2011 Asbestos Projects	Page 8
Attachment 4 - FY2011 Demolition Projects	Page 9

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**STAFF COMMENTS AND RECOMMENDATIONS**

The Board asked the PBFAC to concentrate on Alteration and Repair and other non-major projects. Any changes to these projects by the Board will be submitted to DPW staff which will make their recommendation for the PBFAC November 10th.

**BOARD ACTION**

A motion to approve the non-major projects as submitted on pages 3-9.

Moved by\_\_\_\_\_ Seconded by\_\_\_\_\_ Carried Yes\_\_\_\_ No\_\_\_\_

September 22, 2009

**FY2011 ALTERATION AND REPAIR PROJECTS**

<b>AGENCY / INSTITUTION</b>	<b>STAFF RECOMMENDATIONS</b>	<b>AGENCY REQUESTS</b>	<b>PRIORITY</b>
<b>EDUCATION, STATE BOARD OF</b>			
BOISE STATE UNIVERSITY			
Information Technology Infrastructure, Phase 4, Campus Wide	500,000		1
Storm Water Drainage System, Phase 6, Campus Wide	300,000		2
Door Access/Security System, Phase 3, Selected Buildings	175,000		3
Steam & Condensate Line Replacement, Phase 3, Campus Wide	250,000		4
Chiller and Cooling Tower Replacement, Morrison Center	375,000		5
Renovations to Support Research Space for Engineering	500,000		6
Renovations to Support Research Space for Science	500,000		7
Space Consolidation and Renovation, Administration Building	250,000		8
Replace De-Aerating Feed Water Tank	300,000		9
Domestic Hot Water System Renewal, Science/Nursing and Education Buildings	250,000		10
Faculty Office Remodels, Liberal Arts Building	110,000		11
Fire Alarm System Replacement, Phase 5	75,000		12
Sidewalk Repairs and Improvements, Campus Wide	80,000		13
Classroom Renovations, Education Building	225,000		14
Utility Relocation Master Plan, Sanitary Sewer, Expansion Area	50,000		15
Renovations to Support Research Space for Engineering (continuation)	1,500,000		16
Renovations to Support Research Space for Sciences (continuation)	1,500,000		17
Relocate Sewer Line, Expansion Area	130,000		18
Landscape Improvements, Expansion Area	150,000		19
Renovate Geosciences Space, Math/Geosciences Building	995,000		20
Remodel for Space Reassignment, Technical Services Building	650,000		21
HVAC Upgrade, Science/Nursing Building	750,000		22
Pedestrian/Bicycle Circulation Master Plan and Safety Improvements	75,000		23
Upgrade Card Access System, Micron Engineering Center	105,000		24
Renovations to Support Research Space for Engineering (continuation)	2,800,000		25
Renovations to Support Research Space for Sciences (continuation)	2,000,000		26
Replace Entry Plaza, Business Building	200,000		27
Replace Rooftop HVAC Unit, Health Science Riverside	60,000		28
Exit Sign Renewal, Library	90,000		29
Replace Roof, Applied Technology Building	160,000		30
Replace Roof, Public Affairs & Arts West Building	75,000		31
SUBTOTAL	0	15,180,000	



## FY2011 ALTERATION AND REPAIR PROJECTS

AGENCY / INSTITUTION	STAFF RECOMMENDATIONS	AGENCY REQUESTS	PRIORITY
IDAHO STATE UNIVERSITY			
Renovate ISU Meridian building to relocate the Boise-based Dental Residency Program		1,000,000	1
Total project is \$1.5M, with \$500,000 Agency Funds			
Campus Integrated Master Plan with Storm Water Study		575,000	2
Retrofit Auditorium, Frazier Hall		150,000	3
Renovate Exhaust System, Diesel Automotive Program , Armory		60,375	4
Install Fire Sprinkler System, Basement, College of Business		57,500	5
Renovate HVAC System, Vocational Arts		238,050	6
HVAC Replacement and Upgrades, Tingey Building, Idaho Falls		155,000	7
Replace Campus Safety Monitoring System		167,900	8
Replace Old Main Lines, Campus Irrigation System		325,000	9
Replace Steam Heaters, Reed Gymnasium		275,000	10
Renovate HVAC System, Roy F. Christensen Building		463,450	11
Replace Ceiling, Lighting and Flooring, Beckley Nursing Bldg.		600,000	12
Renovate and Install New HVAC System, Administration Bldg.		494,500	13
Extend Campus Irrigation System		250,000	14
Compact Shelving System, Eli Oboler Library		506,000	15
Winterizing, Center for Higher Education Building, Idaho Falls		120,000	16
Renovate HVAC System, Dental Tech Lab, RFC Building		25,000	17
Renovate Seven Offices, College of Business		95,000	18
Renovate Rooms 307, 314, 327, and 328, Life Science D		150,000	19
Renovate IT Area, Red Hill Building		668,000	20
Sliding Wall Curtain in Balance Clinic, Renovate Two Psychology Labs, Garrison Hall		125,000	21
Campus Exterior Lighting		350,750	22
Remodel Two Classrooms, Math Dept., Physical Science Bldg.		50,000	23
Replace Fire Lane, McIntosh Manor		477,825	24
Parking Lot Repairs		1,000,000	25
Replace Windows, Museum Building		500,000	26
Replace Windows, Beckley Nursing Building		200,000	27
Replace Windows, First Floor, Industrial Crafts Building		46,000	28
Remodel Career Center, Museum Building		60,000	29
Back-Up Generator, Center for Higher Education, Idaho Falls		300,000	30
Replace Boiler, Garrison Hall		100,000	31
SUBTOTAL	0	8,585,350	

## FY2011 ALTERATION AND REPAIR PROJECTS

AGENCY / INSTITUTION	STAFF RECOMMENDATIONS	AGENCY REQUESTS	PRIORITY
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### UNIVERSITY OF IDAHO

Emergency Generator, Renfrew Hall	846,600	1
Pedestrian Pathway Lighting, Perimeter Drive	429,400	2
Utilities Improvements, Rayburn Street	900,000	3
Seismic Evaluation and Analysis, General Education Bldgs.	250,000	4
Replace Roof, Gibb Hall	225,000	5
HVAC System Improvements, Administration Building	955,600	6
HVAC Upgrade, Phase 3, Life Science South	969,100	7
Replace Roof, College of Natural Resources Building	675,000	8
HVAC Upgrade, Phase 3, Janssen Engineering Building	850,000	9
Exterior Envelope Repairs, Administration Building	849,100	10
Standby Power Generator, Life Science South	450,000	11
Replace Roof, Gauss-Johnson Engineering Building	225,000	12
Emergency Generator, Holm Center	257,600	13
Exterior Envelope Repairs, Education Building	1,128,800	14
Replace Roofs, West Wing/Penthouse/E&W Sides, Ag Sci	451,500	15
HVAC System Repair, Phase 2, Gibb Hall	967,500	16
Pedestrian Improvements, 7th Street	376,300	17
Re-Pipe DWV and Heating Systems, Student Health Center	892,300	18
Repair/Renovate East Entry Steps/Planters, Menard Law Bldg	300,000	19
Elevator Life Safety Modifications, Phase 4	707,600	20
Repair North Entry Steps and Mosaic Tile, Administration Bldg	242,800	21
Engineering Shop and Storage Addition, KUID Building	150,000	22
SUBTOTAL	0	13,099,200

### LEWIS-CLARK STATE COLLEGE

Build-Out First Floor, Clearwater Hall	360,000	1
Convert Science Labs to Classrooms, Meriwether Lewis Hall	240,000	2
Replace Eight Lab Doors, Diesel Technology	150,000	3
Replace Windows and Doors, International Programs Building	180,000	4
Pave Parking Lot, Industrial-Agriculture Building	220,000	5
Expand Auto Mechanic Transmission Lab and Classroom, Mechanical and Technical Building	850,000	6
SUBTOTAL	0	2,000,000

## FY2011 ALTERATION AND REPAIR PROJECTS

AGENCY / INSTITUTION	STAFF RECOMMENDATIONS	AGENCY REQUESTS	PRIORITY
NORTH IDAHO COLLEGE			
HVAC Controls Upgrade, Phase 2, Campus Wide		236,250	1
New Boiler, Hedlund Building and Boswell Hall		300,000	2
Replace Roof, Lee-Kildow Hall		357,000	3
Storage Building, Lincoln Way Street		109,725	4
Street and Parking Lot Lighting Upgrade, Campus Wide		69,300	5
Replace 1st Floor Windows and Frames, South and West Sides, Boswell Hall		77,000	6
Replace Carpet, Campus Wide		75,000	7
Interior Painting, Selected Buildings		65,000	8
Prox Card Locking/Security System, Molstead Library and Sherman Administration Building		275,000	9
Replace Floor and Bleachers, Gym		317,900	10
Seating Upgrade, Shuler Performance Arts Center		152,250	11
SUBTOTAL	0	2,034,425	
COLLEGE OF SOUTHERN IDAHO			
Re-Lamp Shields Building		109,500	1
Duct Replacement, Shields Building		62,700	2
Water Line Replacement, Canyon Building		145,900	3
Parking Lots, Evergreen C-Wing, Canyon, and ECC Buildings		191,600	4
Compressor Repair, Heating Plant		50,400	5
Floor Tile, Burley Center		48,600	6
Fire Lane, Canyon and Desert Buildings		199,000	7
Fire Lane Connector, Evergreen Building		53,900	8
SUBTOTAL	0	861,600	
EASTERN IDAHO TECHNICAL COLLEGE			
Replace Make-Up Air Fan, Lab Areas, Creek Building 5		325,000	1
Study HVAC System, Creek Building 5		50,000	2
Replace Mercury Vapor Security Lighting Fixtures, Campus Wide		70,000	3
HVAC Upgrade, Sessions Building 1		925,000	4
Grounds Care Equipment Shed, Compound Building 4		80,000	5
Renovate Two Shop Areas, Technical Building 2		500,000	6
Renovate Parking Lot and Roadway, Sessions Building 1		295,000	7
SUBTOTAL	0	2,245,000	
IDAHO SCHOOL FOR THE DEAF AND BLIND			
Replace Roof, Main Building		1,006,000	1
Replace Flooring, Four Areas, Main Building		75,000	2
Fire Sprinkler System, Round Building		260,000	3
Resurface Track		85,000	4
SUBTOTAL	0	1,426,000	
TOTAL SBE:	0	45,431,575	



**FY2011 AMERICANS WITH DISABILITIES ACT PROJECTS**

<b><u>AGENCY / INSTITUTION</u></b>	<b><u>AGENCY REQUESTS</u></b>	<b><u>AGENCY PRIORITY</u></b>
<b>EDUCATION, STATE BOARD OF</b>		
BOISE STATE UNIVERSITY		
ADA Access Improvements, Main Campus	75,000	1
SUBTOTAL	75,000	
IDAHO STATE UNIVERSITY		
Repair and Upgrade Elevator, Turner Hall	432,550	1
Exterior ADA, Library Building and Frazier Hall	180,000	2
Replace Elevator, Vocational Arts Building	350,000	3
Repair and Upgrade Elevator, Garrison Hall	432,550	4
ADA Parking Lot and Sidewalk Repairs, Campus Wide	859,050	5
Install New Elevator, Reed Gymnasium	464,600	6
New Elevators, Industrial Crafts Building	350,000	7
Install Elevator, Frasier Hall	475,000	8
Add a second elevator to College of Business	862,500	9
Install New Elevator, Nichols Hall	460,000	10
SUBTOTAL	4,866,250	
UNIVERSITY OF IDAHO		
New Elevator, Admin & Classrm Core, Wallace Residence Cntr.,	481,600	1
New Elevator, Menard Law Building	434,300	2
SUBTOTAL	915,900	
NORTH IDAHO COLLEGE		
ADA Upgrades, Campus Beach	140,000	1
ADA Door Knobs and Locks, Selected Buildings	60,000	2
SUBTOTAL	200,000	
<b>TOTAL SBE</b>	<b>6,057,150</b>	

**FY 2011 ASBESTOS PROJECTS**

<b><u>AGENCY / INSTITUTION</u></b>	<b><u>AGENCY REQUEST</u></b>	<b><u>AGENCY PRIORITY</u></b>
<b>EDUCATION, STATE BOARD OF</b>		
BOISE STATE UNIVERSITY		
Replace Floor Tile, Science/Nursing Building	80,000	1
SUBTOTAL	80,000	
IDAHO STATE UNIVERSITY		
Abate Asbestos Ceiling, 2nd & 3rd Levels, Beckley Nursing Bldg	400,000	1
Abate Exterior Walls, Family Medicine Building	82,000	2
Mitigate Asbestos, Administration Building	350,000	3
Mitigate Asbestos, Basement, Education Building	80,000	4
SUBTOTAL	912,000	
TOTAL SBE	992,000	

**FY 2011 DEMOLITION PROJECTS**

<b><u>AGENCY / INSTITUTION</u></b>	<b><u>AGENCY REQUESTS</u></b>	<b><u>AGENCY PRIORITY</u></b>
<b>EDUCATION, STATE BOARD OF</b>		
BOISE STATE UNIVERSITY		
Demolish Vacant Properties, Southeast Expansion Area	125,000	1
SUBTOTAL	125,000	
UNIVERSITY OF IDAHO		
Demolish, Line Street Electric Sub Station	118,300	1
SUBTOTAL	118,300	
TOTAL SBE	243,300	



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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**SUBJECT**

Idaho Promise Scholarship – Approve Category B Award

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho Administrative Procedures Act (IDAPA) 08.01.05.102.01  
Sections 33-4305 and 33-4308, Idaho Code

**BACKGROUND/DISCUSSION**

The Idaho Promise Scholarship Category B award is available for all Idaho students attending college for the first time and who have a high school grade point average of at least 3.0 or an ACT score of 20 or above. This scholarship is limited to two years and to students younger than 22 years of age. Students must maintain at least a 2.5 GPA while taking an average of 12 credits to remain eligible for the scholarship. State law requires the State Board of Education to annually set the amount of the award based on the legislative appropriation and the number of eligible students.

Statute permits the State Board of Education to set the annual individual amount up to \$600 and the total award up to \$1,200. The amount for the Promise B scholarship for FY10 was set by the Board at the April 2009 meeting at \$250/semester for eligible students. Final reports were submitted by institutions and usage projections for the 2009-2010 academic year indicated that the individual scholarship amounts need to be reduced. Actual awards for the Fall 2009 semester are higher than earlier estimates and the Board will need to decrease the amount of the award for the spring 2010 semester.

The legislative appropriation for the Promise Category B Scholarship for FY2010 is \$3,925,400. The holdback for this fund is estimated to be \$235,524. The available funds for the 2009-2010 year is \$3,689,876. Participating Idaho institutions are all reporting increases in enrollments. Board staff has estimated the number of eligible students in academic year 2009-2010 will be approximately 9200 students. With the award reduced to \$400 per student per year, all eligible students should receive an award. Fall awards were set for \$250 and staff is recommending that the Board reduce the amount of the Spring 2010 award to \$150. Staff recommends that any additional spring adjustment be delegated to the Executive Director.

**IMPACT**

The Promise Scholarship provides a merit-based scholarship to Idaho high school students in an attempt to motivate students to excel in high school and attend an Idaho college. Estimated number of students receiving scholarships is 9200.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**STAFF COMMENTS AND RECOMMENDATIONS**

Staff recommends the Board set the amount of the spring 2010 Promise B award at \$150 with a total annual award for the 2009-2010 academic year at \$400.

Staff recommends the Board delegate to the Executive Director any adjustment necessary to the spring 2010 award.

**BOARD ACTION**

A motion to set the spring 2010 Promise B award at \$150.00 for those current recipients who maintain eligibility and for qualified first-year entering students under the age of 22 in academic year 2009-2010.

Moved by\_\_\_\_\_ Seconded by\_\_\_\_\_ Carried Yes\_\_\_\_\_ No\_\_\_\_\_

A motion to delegate to the Executive Director any adjustment to the spring 2010 award for those current recipients who maintain eligibility and for qualified first-year entering students under the age of 22 in academic year 2009-2010.

Moved by\_\_\_\_\_ Seconded by\_\_\_\_\_ Carried Yes\_\_\_\_\_ No\_\_\_\_\_

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
OCTOBER 15, 2009**

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**SUBJECT**

Overview of Idaho Student Aid Programs

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho Code, Title 33, Chapters 43, 44, 46 and 56.

**BACKGROUND/DISCUSSION**

The State Board of Education manages over \$8.5 million in funding for student aid. Programs include merit scholarships, need-based scholarships, state work-study, loan forgiveness, federal scholarships, need-based grants and the new Idaho Opportunity Scholarship. Attachment 1 provides an overview of each program with funding amounts and the numbers of students served. Programs vary from centralized programs managed directly by Board staff and decentralized programs managed in partnership with participating institutions. In 2005, an online application process and database were developed to improve management of the centralized scholarships managed by the Board. This change significantly improved many aspects of the scholarship process for students, high school, staff, and board staff.

**ATTACHMENTS**

Attachment 1 – Scholarships Overview

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**STAFF COMMENTS AND RECOMMENDATIONS**

Staff has no comments or recommendations.

**BOARD ACTION**

This item is for informational purposes only. Any action will be at the Board's discretion.



SCHOLARSHIP or GRANT PROGRAM	FUND SOURCE	FY 2010 Original Appropriation	FY 2011 Budget Request
1. Idaho Robert R. Lee Promise Scholarship – Category A	General	\$331,300	\$331,300
2. Idaho Robert R. Lee Promise Scholarship – Category B	General	\$3,925,400	\$3,925,400
3. Atwell Parry Work Study Program	General	\$1,344,500	\$1,371,400
4. Minority / “At Risk” Scholarship	General	\$111,000	\$111,000
5. Teachers/Nurses Loan Forgiveness Program	General	\$262,000	\$250,000
6. Freedom Scholarship (fee waiver)	General	\$14,000	\$40,000
7. Public Safety Officer Scholarship (fee waiver)	General	\$35,300	\$50,000
8. “Grow Your Own” Teacher Corp Scholarship	General	\$366,500	\$366,500
9. Opportunity Scholarship	General	\$1,000,000	\$1,000,000
10. Leveraging Education Assistance Program (LEAP/SLEAP)	General	\$711,700	\$711,700
11. Leveraging Education Assistance Program (LEAP/SLEAP)	Federal	\$189,300	\$218,000
12. Byrd Honors Scholarship Program	Federal	\$216,000	\$216,000
13. Unallocated Federal Spending Authority	Federal	\$34,700	\$34,700
<b>Total</b>		<b>\$8,541,700</b>	<b>\$8,626,000</b>

**Idaho Robert R. Lee Promise Scholarship – Category A:** Provides between 20 and 40 highly competitive, renewable scholarships each year to outstanding Idaho high school seniors who plan to pursue postsecondary academic or professional-technical studies at one of Idaho’s public or private institutions of higher education. Awardees are selected on the basis of GPA and ACT scores. The award amount is \$3,000 per year, renewable up to four years for academic programs or for the term of the professional-technical program (up to three years). For the 2009-10 academic year, 22 new scholarships were awarded to freshmen. Applicant Profile: 189 applicants; 95 with 4.0 GPAs; 81 ranked first in their graduating class; 114 with ACT scores of 30 or higher out of a possible 36.

**Idaho Robert R. Lee Promise Scholarship – Category B:** Provides up to \$600 per year, including any 1:1 match amounts from participating institutions, for all Idaho students with a grade point average of at least 3.0 or an ACT score of at least 20. The actual award amount is determined by the State Board of Education and is subject to available funding. These scholarships are limited to two years (four semesters) and to students younger than 22 years of age. Awardees must maintain at least a 2.5 GPA to remain eligible. It is estimated that 9200 students will qualify for this scholarship for the 2009-2010 academic year.

**Atwell Parry Work Study Program:** An employment program designed to allow resident students with financial or educational need to earn funds to assist in attending accredited institutions of higher education in Idaho. Institutions provide a 20-percent match for on-campus jobs, off-campus employers provide a 50% match. This program provides an average award of \$955 to approximately 1,361 students.

**Minority / “At Risk” Student Scholarship Program:** Provided 36 scholarships per year to Idaho students who are at-risk of failing to achieve their educational goals because of cultural, economic, social or physical circumstances (e.g. disabilities). The award can be up to \$3,000 per year for four years. To qualify, an Idaho graduate must meet three of the following five criteria: (1) be a first-generation college student, (2) be

handicapped, (3) be a migrant farm worker or the dependent of a migrant farm worker, (4) have a substantial financial need, (5) be a member of an ethnic minority historically under-represented in higher education. A total of 36 students are currently receiving the \$3,000 scholarship for the 2009-2010 academic year.

**Teachers/Nurses Loan Forgiveness Program:** Provides loans equal to full-time student fees for selected nursing and teacher education students. Loans are forgiven if the recipient teaches or practices in Idaho for two years after graduation. The law allows up to 16 new awards per year for teachers and 13 for nurses.

**Freedom Scholarship (fee waiver):** Formerly known as the POW/MIA scholarship, this provides tuition and fees, on-campus housing and subsistence, plus up to \$500 per semester for books to children of Idaho citizens determined to have been prisoners of war, missing in action, or killed in action in any armed conflict of which the United States was a party. Awardees must attend an Idaho public college or university.

**Public Safety Officer Scholarship (fee waiver):** Provides tuition and fees, on-campus housing and meals, plus up to \$500 for books per semester to children of Idaho citizens who have been killed or disabled in the line of duty while employed in Idaho as a public safety officer. Awardees must attend an Idaho public college or university. There are approximately 15 dependents that may be eligible for the scholarship within the next 10 years.

**“Grow Your Own” Teacher Scholarship:** Provides scholarships for instructional assistants employed by local school districts or school volunteers through programs leading to an AA/AS or BA/BS degree in education with an emphasis on bilingual education or an English as a Second Language (ESL) endorsement. The Colleges of Education will work with local school districts and instructional assistants to achieve teacher certification, thereby providing a career ladder for minorities to become certified teachers while they remain on the job. This program was designed to address the growing population of non-English speaking children in Idaho public schools. Recipients receive up to 90% of the cost of their student fees per year.

**Opportunity Scholarship:** A need-based scholarship is designed on a shared responsibility model with state dollars being the “last dollars.” This means that a student must apply for federal aid, have a self or family contribution element before they would be eligible for the Opportunity Scholarship. Due to the current economic situation, no new funds were provided to fund this scholarship for 2009-2010. Funds from the endowment will be used to fund renewal scholarships. Funding of new scholarships is on hold until all renewals are complete. Approximately 450 students will receive the scholarship, with the majority of those receiving the maximum award of \$3,000.

**Leveraging Educational Assistance Program (LEAP/SLEAP):** A federal grant program with a state match requirement that is available to students with demonstrable financial need. Students may attend any public or private institution of higher education in Idaho. Although more than 95% of the recipients are Idaho residents, there is no

residency requirement. For the 2008-2009 academic year, the number of LEAP students served is 1,617 with average awards of \$440, and the number of SLEAP students served is 375 with average awards of \$400.

**Byrd Honors Scholarship Program:** A federally funded, state-administered program awarded on the basis of merit. The award ranges up to \$1,500 per year to support a maximum of four years of study to outstanding high school seniors who show promise of continued academic achievement in postsecondary education. A total of 141 students received the scholarship in the 2009-2010 academic year, 67 of whom attend Idaho institutions.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 15, 2009**

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**SUBJECT**

College of Western Idaho FY10 Budget Supplemental

**REFERENCE**

August 2009

Board approved FY 2011 Budget Requests

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.B.1.  
Title 67, Chapter 35, Idaho Code

**BACKGROUND/DISCUSSION**

Included in the College of Western Idaho (CWI) budget request was a maintenance item of \$1,086,000 to fund enrollment growth. The funding is needed to support CWI at the same level per academic full time equivalent (FTE) student as the other two community colleges which is approximately \$2,952 for FY 2010 after the Governor's one-time 6% holdback. The current CWI FY 2010 appropriation after one-time holdback is \$4,311,000 which would support 1,460.38 FTE at the \$2,952 rate.

At the time of the original budget request, CWI only had one semester of enrollment experience; fall 2009 (FY 2010) would not be known until sometime in September. If fall enrollment growth was substantial, the College would consider making a supplemental appropriation request at the October Board meeting.

**IMPACT**

Now that the fall 2009 enrollment growth is known, CWI expects student FTE to reach 1,815 in FY 2010. To be funded at the same amount per FTE as the other community colleges, CWI would need 354.72 additional FTE (1,815 minus 1,460.38) for a total FY 2010 supplemental request of \$1,047,200.

For FY 2011 and the state appropriation restored for the 6% holdback, the FTE supported would increase from 1,460.38 to 1,553.59. CWI projects the FY 2011 student FTE at 2,000 or an increase of 446.04. Assuming the FY 2010 supplemental is an ongoing increase, the net increase needed for FY 2011 would be 91.32 FTE (446.04 minus 354.72). This increase of 91.32 FTE would necessitate an increase in FY 2011 funding of approximately \$269,600.

The original maintenance request of \$1,086,000 has been reduced to this amount.

**STAFF COMMENTS AND RECOMMENDATIONS**

Staff recommends approval.



**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
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**BOARD ACTION**

A motion to approve the FY 2010 supplemental budget request for the College of Western Idaho in the amount of \$1,047,200.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_