

AM No. 12-052 (C6)

MEMO TO:

City Council

FROM:

John Marchione, Mayor

DATE:

April 3, 2012

SUBJECT:

AUTHORIZE OF THE MAYOR TO SIGN A CONTRACT WITH PREMGROUP IN THE AMOUNT OF \$37,800 FOR PROPERTY MANAGEMENT OF CITY-OWNED DOWNTOWN PARK

PROPERTIES

I. RECOMMENDED ACTION:

Authorize the Mayor to sign a contract with PremGroup in the amount of \$37,800 for the property management of city-owned downtown park properties.

II. DEPARTMENT CONTACTS:

Craig Larsen, Park and Recreation Director
Jean Rice, Senior Management Analyst
425-556-2310
425-556-2378

III. DESCRIPTION:

During 2011, the City of Redmond purchased several buildings in downtown for the future downtown park. Tenants will remain in these building until they have relocated. All tenants will be out of these buildings by the end of the year.

Staff has researched the pros and cons of hiring an outside management company to facilitate the necessary maintenance issues that may arise in the buildings during the next ten months. These duties would include all repair and maintenance of electrical, plumbing, and HVAC heating/cooling systems. There will be 24-hour customer service and weekly site visits.

Currently, Public Works and Parks staffs do not have the combined expertise and staff hours to provide this service directly. Many smaller contracts would have to be established to handle each service individually.

A Request for Proposal (RFP) was sent out to solicit proposals for this service. Only one company, PremGroup, responded to the RFP. Staff decided not to re-submit the RFP, based on recommendations from Purchasing and the City's Property Manager, because it was determined that were not many property management companies that would submit a proposal for a short-term (10 month) contract. The cost of property management is in line with other proposals in neighboring cities, PremGroup has established relationships

with the City of Bellevue and the University of Washington, and they have expertise in dealing with municipal finance and purchasing.

IV. IMPACT:

The contract amount is \$37,800 annually. The fee covers:

- · property operations and maintenance coordination;
- third-party service contract supervision;
- tenant, vendor, client relations;
- · financial and management reporting;
- · service center portal, dispatch, and reporting;
- building security;
- bi-weekly site visits; and
- small repair project costs.

Any major repairs will be approved by City staff prior to the work beginning.

Lease payments collected from downtown properties are approximately \$24,000 per month. This revenue will cover the costs of the property management contract.

V. ALTERNATIVES:

- 1. The City Council could choose not to authorize the contract. This may result in poor customer service, added work load for staff, and possible use of overtime.
- 2. The City Council could choose to authorize the contract. This would result in prompt service and trained personnel to respond to customer needs.

VI. TIME CONSTRAINTS:

We would like to authorize the contract as soon as possible to provide good customer service to our tenants.

VII. ATTACHMENTS

A. Proposed Contract

Craig Larsen, Director of Parks and Recreation

3/28/24/2 Date 3/28/12

Approved for Council Agenda

John Marchione, Mayor

Date | | |

PROPERTY MANAGEMENT AGREEMENT

This Real Estate Property Management Agreement ("Agreement") is made as of March 15, 2012 between The City of Redmond, ("Owner") and PREM Group Holdings, LLC, an Oregon LLC ("Manager") with reference to the following facts:

Owner is the owner of, or is contemplating the acquisition of, the land and improvements located at 7810 Brown Street and 16240 Redmond Way, Redmond, Washington 98052-4358 (the "Property").

Manager represents that it is in the business of managing properties similar to the Property and possesses the skills and experience necessary for the efficient, professional management of the Property.

Owner desires to engage the services of Manager in connection with managing the Property and Manager desires to provide such services to Owner.

Now, therefore, in consideration of the following promises, obligations and agreements, Owner and Manager agree as follows:

ARTICLE I - BASIC TERMS

- 1.1 <u>Effective Date</u>. Manager's appointment under Article II shall become effective as of April 3, 2012 (the "Effective Date).
- 1.2 <u>Term.</u> The term of this Agreement shall commence on the Effective Date and shall continue for a period of twelve (12 months), and thereafter the term shall be automatically extended on a month-month basis, subject at all times to the rights of termination set forth in Section 12.1.
- Limit on Amount Authorized For Non-Emergency Purchase and Repairs and Contract Amount Requiring Owner Approval. The limit on the amount Manager may incur for non-emergency purchases or repairs under Section 4.4 is \$5,000. Owner's prior written approval is required under Section 4.5 (b) of any contract for more than \$5,000.
- 1.4 <u>Bank and Bank Account</u>. Manager shall designate a bank (the "Bank"), subject to Owner's written approval, in which a client trust account shall be established and named as follows: "City of Redmond, in Trust" (the "Bank Account"). The Bank Account shall be used to pay all approved and authorized expenses for the Property, as set forth herein. Manager is authorized as "Agent for Owner" to draw on the Bank Account in accordance with the provisions of this Agreement.
- 1.5 <u>Address of Owner.</u> Unless changed by notice to Manager, the address of Owner for notices under Section 13.4 shall be:

City of Redmond Parks and Recreation 15670 NE 85th Street MS: 4NPK PO Box 97010 Redmond, WA 98073-9710

1.6 <u>Address of Manager</u>. Unless changed by notice to Owner, the address of Manager for notices under Section 13.4 shall be:

PREM Group 601 Union Street Suite 3015 Seattle, WA 98101 Attention: Property Manager 1.7 <u>Management Fee</u>. The management fee payable to Manager for its services under this Agreement shall be \$2,500 per month, subject to the limitations contained in Article X. The management fee shall be due and payable in the month in which it is earned.

ARTICLE II - APPOINTMENT

Owner hereby appoints Manager as the manager for the Property as of the Effective Date, and for the term stated in Section 1.2. Owner hereby authorizes Manager to exercise such powers and to take such actions with respect to the Property as may be necessary for the performance of Manager's obligations under this Agreement. Manager hereby accepts such appointment on the terms and conditions hereinafter set forth.

ARTICLE III - LEASING

3.1 Manager shall not be responsible for leasing services for the Property unless Manager enters into a separate leasing agreement with Owner. Regardless of whether Manager has entered into a leasing agreement with Owner, Manager agrees to assist and cooperate with any leasing agent appointed by Owner for the Property.

ARTICLE IV - DUTIES OF MANAGER

4.1 General Duties.

- (a) Manager, on behalf of Owner, shall use diligent efforts to manage and operate the Property and shall comply with Owner's instructions as set forth herein or as may from time to time be provided by Owner to Manager. Manager shall perform its services in a professional and diligent manner and shall manage, operate, repair, maintain and service the Property consistent with industry standards in the locale where the Property is located. In connection therewith, Manager shall conduct the ordinary and usual business affairs of Owner relating to the Property as provided in this Agreement and shall implement, or cause to be implemented, the Owner's decisions. In particular, Manager shall have the duties and obligations set forth hereafter in this Article IV.
- (b) Manager acknowledges receipt of certain books and records with respect to the operation of the Property, personal property on the Property belonging to Owner, and all service contracts relating to the maintenance and operation of the Property.
- 4.2 <u>Utility and Service Contracts</u>. As may be required for property operations, Manager shall negotiate contracts on behalf of Owner for gas, electricity, water, telephone, trash collection, sewer, elevator service, landscaping, janitorial service, security service and such other services as are, or will be, furnished to the Property for terms of not greater than one year, unless otherwise approved by Owner in writing. All such service contracts shall be entered into by Manager for the account in the name of Owner and where applicable, shall be terminable on 30 days notice or less. The funds to pay for such services shall be paid from the Bank Account.
- 4.3 <u>Employment of Personnel</u>. All persons employed in connection with the operation and maintenance of the Property shall either be employees of Manager or such consultants or independent contractors as may be retained by Manager and shall not be employees of Owner. Manager shall select, employ, pay, supervise, direct and discharge all employees necessary for the operation and maintenance of the Property, and shall use reasonable care in the selection and supervision of such employees. Manager shall be responsible for complying with all laws, regulations and collective bargaining agreements affecting such employment. Manager is and will continue throughout the term of this Agreement to be an Equal Opportunity Employer.

4.4 Maintenance and Repairs.

- Manager shall perform or cause to be performed all ordinary maintenance, repairs, (a) alterations, replacements and installations and purchase all supplies necessary for (i) the proper operation of the Property, (ii) the fulfillment of Owner's obligations under any lease of space in the Property, (iii) the fulfillment of Owner's obligations under any mortgage encumbering the Property, provided Owner gives Manager written notice of such mortgage obligations, and (iv) compliance with covenants, conditions and restrictions, provided Manager shall not make any purchase or order any work costing more than the limit on the amount authorized for non-emergency purchases and repairs set for the in Section 1.3 without Owner's prior written approval, except in circumstances reasonably deemed by Manager to be an emergency requiring immediate action for the protection of the Property or tenants or other persons or to avoid the suspension of necessary services. Manager shall promptly notify Owner of the necessity for the nature of and the cost of such emergency repairs or compliance. If Owner shall require, Manager shall submit a list of contractors and subcontractors who are performing any work, repairs, alterations, replacements or services on the Property under Manager's direction. All repairs, alterations and replacements shall be of at least equal quality and workmanship to the original work, subject to the requirements of the Approved Budget and Owner's authorization.
- (b) Manager shall obtain all necessary receipts, releases, waivers, discharges and assurances necessary to keep the property free of any mechanics', laborers', materials suppliers' or vendors' liens in connection with work, materials or supplies contracted for which Manager contracts. All such documentation shall be in such form as required by Owner.

4.5 <u>Contracts with Third Parties</u>.

- (a) Manager shall monitor all independent contractors, consultants, suppliers and entities retained by Manager for the operation, repair, maintenance and servicing of the Property or for any other activity within the scope of this Agreement. All of such contractors shall be subject to Owner's prior written approval. Manager shall ensure that all contracts on which prevailing wages must be paid under Washington State Law contain appropriate provisions requiring the contractor to pay such wages and to file any necessary paperwork with the Department of Labor and Industries. Manager shall require that any contractor performing work on the Property maintain insurance satisfactory to Owner, including, but not limited to, Workers' Compensation Insurance (and, when required by law, compulsory Non-Occupational Disability Insurance) and insurance against liability for injury to persons and property arising out of all such contractor's operations naming Manager, Owner and Owner's Representative as additional insureds. Manager shall obtain certificates of insurance for all such insurance before the work begins. Manager shall furnish copies of the certificates to Owner if requested by Owner.
- (b) Manager shall not execute, or otherwise enter into or bind Owner with respect to any contract or agreement for equipment, supplies, services or any other item where the aggregate amount of such contract is in excess of \$5,000 without obtaining two competitive written bids. Manager shall not enter into any contract or agreement for more than the amount specified in Section 1.3 without Owner's prior written approval. All contracts, agreements or other arrangements made pursuant to this Agreement shall be in the name of Owner and, unless otherwise approved by Owner, shall be terminable on 30 days' notice or less.
- 4.6 <u>Purchase of Supplies and Materials</u>. Manager shall purchase all equipment, tools, appliances, materials and supplies reasonably necessary or desirable for the maintenance and operation of the Property. Contracts for all such purchases shall be in the name of Owner. Such purchases shall be used solely in connection with the operation and maintenance of the Property. In

connection with the performance of its duties pursuant to this Section 4.6, Manager shall use its best efforts to qualify for any cash and trade discounts, refunds, or credits and which, if they are in the form of cash, shall be deposited in the Bank Account. If Owner is entitled to discounts from contractors and suppliers under any national or regional agreements, Manager shall avail itself of such national or regional agreements whenever possible.

4.7 <u>Contracts with Affiliated Entities</u>. Manager may, upon prior written notice to Owner, purchase materials, tools or supplies or contract for repair, construction or any other service for the Property pursuant to Sections 4.2, 4.4, or 4.6 with a party in which Manager (or any subsidiary, affiliate or related entity) holds a beneficial interest provided that the pricing for such materials or services does not exceed the cost of such materials or services commonly charged in the area where the Property is located.

4.8 Complaints and Notices.

- (a) Manager shall handle promptly complaints and requests form tenants, concessionaires and licensees and notify Owner of any major complaint made by a tenant, concessionaire or licensee. Manager shall notify Owner promptly of: (i) any notice received by Manager or known to Manager of violation of any governmental requirements (and make recommendations regarding compliance therewith); (ii) any defect or unsafe condition in the Property known to Manager; (iii) any notice received my Manager or known to Manager of violation of covenants, conditions and restrictions affecting the Property or noncompliance with loan documents affecting the Property, if any; (iv) any fire, accident or other casualty or damage to the Property; (v) any condemnation proceedings, rezoning or other governmental order, lawsuit or threat thereof involving the Property; or (vi) any violations relative to the leasing, use, repair and maintenance of the Property under governmental laws, rules, regulations, ordinances or like provisions; (vii) defaults under any leases or other agreements affecting the Property; or (viii) any violation of any Manager shall promptly deliver to Owner copies of any insurance requirement. documentation in its possession relating to such matters. Manager shall keep Owner reasonably informed of the status of the particular matter through the final resolution thereof. In the case of any fire or other damage to the Property or violation or alleged violation of laws respecting Hazardous Wastes, Manager shall immediately give telephonic notice thereof to Owner. Manager shall complete all necessary and customary loss reports in connection with any fire or other damage to the Property. Manager shall retain in the records it maintains for the Property copies of all supporting documentation with reference to such notices.
- (b) Manager shall promptly notify Owner and any insurance agent Owner may designate of any personal injury or property damage occurring to or claimed by any tenant or third party on or with respect to the Property. Manager shall promptly forward to Owner with copies to any insurance agent Owner may designate any summons, subpoena or other legal document served upon Manager relating to the actual or alleged potential liability of Owner, of Manager or of the Property.
- (c) Should any claim, demand, suit or other legal proceeding be made or instituted by any third party against Owner which arises out of any matters relating to the Property, this Agreement or Manager's performance hereunder, Manager shall give Owner all pertinent information, and reasonable assistance subject to Section 6.2 (g) below, in the defense or other disposition thereof.
- 4.9 <u>Tenant Insurance Certificates</u>. Manager shall use its best efforts to obtain from all tenants the originals of all certificates of insurance and renewals thereof required to be furnished by the terms of their leases. Manager shall forward copies of the certificates to Owner if requested by Owner. Manager shall establish systems and procedures to enforce lease requirements that such policies of insurance do not lapse and that all persons required to be named as additional insureds are listed thereon.
- 4.10 Enforcement of Leases and Funds Deposited by Owner.

- (a) Manager shall use reasonable and diligent efforts to enforce the terms of all leases, concessions and licenses. Owner shall deposit revenues required to fund the operation of the Property in the Bank Account as requested by Manager and approved by Owner in a timely manner. Owner may supply Manager with written instructions to notify promptly third parties of such deposits, to enable transfer of Owner's monies to other bank accounts. The Bank Account shall be opened by Manager and shall name as signatories employees of Manager approved in writing by Owner and such other persons as Owner may designate in writing. All withdrawals from the Bank Account shall require two signatures.
 - At Owner's option, the Bank Account may be comprised of two accounts, a checking account in which the funds on deposit shall be kept to the minimal practicable to pay day to day expenses and a money market account or other interest bearing account.
- (b) Manager is not authorized to practice law. If Manager deems legal assistance to be necessary for any reason, Manager shall obtain such assistance from counsel approved by Owner. Upon prior notice and written approval of Owner, Manager shall institute in Owner's name and defend, at Owner's expense, through legal counsel approved by Owner all necessary legal proceedings to: (i) collect rent or other income from tenants, concessionaires and licensees on the Property; (ii) oust or dispossess any tenants or other persons from the Property; and (iii) address any other matters requiring legal attention. Owner reserves the right to change the approved counsel to be used by Manager and to other wise control litigation of any character affecting or arising out of the operation of the Property.
- 4.11 Compliance with Laws. Manager shall not knowingly violate any applicable laws, ordinances, rules, regulations, requirements or orders of any federal, state, municipal, or other governments in performing its services under this Agreement and Manager shall use reasonable diligence to comply with any and all such laws, ordinances, rules, regulations, requirements and orders in performing its services at the Property. Manager shall promptly notify Owner of any known violation of any federal, state, municipal, or other governmental law, ordinance, rule, regulation, requirement or order due to the structure, operation or condition of the Property or the use thereof by any tenant, occupant or employee.

4.12 Licenses and Authorizations.

- (a) Manager shall obtain and keep in full force and effect all licenses, permits, consents and authorizations as may be necessary for the maintenance, operation, management, repair, servicing or occupancy of the Property. All of such licenses, permits, consents and authorizations shall be in the name of Owner, if required in writing by Owner.
- (b) Manager shall obtain and keep in full force and effect all real estate and business licenses and governmental authorizations (including qualifications to do business) as may be necessary for the proper performance by Manager of its duties and obligations under this Agreement. All such licenses and authorizations shall be in the name of Manager.
- 4.13 Other Duties. Manager shall, at Owner's expense, perform all other services which are necessary and appropriate to manage, operate and maintain the Property.
- 4.14 <u>Confidentiality</u>. Manager shall hold in confidence and not use or disclose to others any confidential or proprietary information of Owner which is disclosed to Manager, including but not limited to any data, information, plans, programs, processes, costs, or operations of Owner, provided, however, that Manager's obligations hereunder shall not apply if such information (a) is available to the general public or known within the real estate industry, or (b) is required to be disclosed pursuant to law, court order or subpoena.

ARTICLE V -REPORTS AND OTHER FINANCIAL MATTERS

5.1 Reports.

- (a) Manager shall, during the term of this Agreement, deliver monthly reports to Owner relating to the management and operation of the Property for the preceding calendar month, not later than fifteen (15) business days after the end of the preceding month.
- (b) Manager's accounting records and reports will be provided in Manager's standard report format as it may be revised from time to time. Manager will provide variations in its standard format or additional reports at an additional charge to Owner.
- (c) To ensure the reliability of all reports required by this section, Manager shall on or before the last day of the accounting month: pay all charges, fees, bills, invoices, etc., which are normally and customarily incurred monthly in connection with the operation of the Property and any other mutually agreed amounts which are payable that month, provided that if any charges, fees, bills, invoices, etc., for that month cannot be paid by the 15th, Manager shall accrue such items, if appropriate.
- Records. Manager agrees to keep separate records with respect to the management and operation of the Property, and to retain those records for periods specified by Owner. Accounting shall be on a cash basis. Such books, records, and accounts shall include, without limitation, vouchers, statements, receipted bills and invoices, employment records, documents, notices, agreements, contracts, correspondence, leases, permits, licenses, authorizations, all collections and disbursements related to the Property, the deposits to the Bank Account and other business and affairs of the Property within the responsibility of Manager pursuant to this Agreement. Owner shall have the right, during the term of this Agreement, to inspect such records and audit the reports required by Section 5.2 during normal business hours upon at least three (3) days' notice. All such records, data, information and documents, shall at all times be the property of Owner and shall be delivered to Owner without demand upon termination of this Agreement.
- 5.3 <u>Duty of Care.</u> Manager shall exercise such control over accounting and financial transactions as is reasonably required to protect Owner's assets from loss or diminution due to error, negligence, recklessness, willful misconduct, fraud or criminal acts on the part of Manager or its agents, contractors, subcontractors, associates or employees. Losses caused by such error or activity shall be borne by Manager, to the extent such losses are not paid to Owner pursuant to the insurance required by Section 7.1.

ARTICLE VI – RESPONSIBILITIES OF OWNER

- 6.1 <u>Documents Provided by Owner</u>. In order for Manager to set-up and establish operations, Owner shall provide to Manager such information, documents and certificates regarding the Property as Manager shall reasonably request and as Owner has in its possession, including, but not limited to, the following to the extent available:
 - (a) A current and complete rent roll.
 - (b) An operating budget and capital budget for the current calendar year.
 - (c) Copies of lease documents and correspondence related thereto for all leases currently in force.
 - (d) All leases currently in dispute or litigation.
 - (e) Legal descriptions of the Property and any improvements.
 - (f) Site plans and specifications.
 - (g) An inventory of Owner's personal property at the Property, including all tools, equipment and supplies.
 - (h) A list of all vendors.
 - (i) All pertinent books and records relating to the management, operation and leasing of the Property.
 - (j) All third party contracts in force.

- (k) All insurance policies on the Property and schedules of Owner's current and past insurance policies.
- (I) All tenant and vendor insurance certificates.
- (m) Procedures for reporting claims and evaluating safety and loss prevention conditions.

The above and any and all books and records are and shall remain the property of Owner but shall be made available to manager for its use and knowledge in assuming the duties and responsibilities of Manager under this Agreement.

- 6.2 <u>Owner's Obligations</u>. Throughout the term of this Agreement, Owner agrees to perform the following:
 - (a) To pay Manager for its services in the amounts and in the manner and at the times described in Article XI.
 - (b) To promptly reimburse Manager, upon written demand, to the full extent of all funds advanced by Manager for Owner's account in carrying out the terms and conditions of this Agreement.
 - (c) To communicate with Manager through Manager's assigned manager for the Property at the property management level.
 - (d) To maintain adequate funds in the Bank Account to fund all expenditures to be made by Manager pursuant to the terms of this Agreement.
 - (e) To pay Manager for Manager's time expended in connection with any casualty, injury, lawsuit, claim, emergency service, hearing, or any other proceeding relating to the Property in an amount of \$150.00 per hour adjusted annually to market, as agreed. Furthermore, Owner shall pay Manager the above hourly fee in connection with any oversight services for the insurance administration or any special audit, accounting, reporting, or consulting services, including coordinating or assisting in any sale, due diligence, or exchange process relating to the Property, or any other special services relating to the Property which Owner requests Manager to perform.
 - (f) To disclose promptly to Manager, upon Manager's request, the property and liability loss history of the Property as set forth in the records of the Owner and Owner's insurance carriers.
 - (g) To disclose promptly to Manager, in writing, any unresolved past or present claims, conditions, or occurrences which may become future claims, conditions, or occurrences which would not be covered by insurance policies maintained by Owner, including those policies required to be maintained by Owner under this Agreement.
 - (h) To promptly inform Manager in writing of the existence on the Property of any structural defect which causes or threatens to cause a nuisance upon the Property or adjacent properties or poses or threatens to pose any hazard to the health or safety of any persons on or about the Property. Owner further agrees to correct or otherwise repair, at Owner's sole expense, any such structural defect within a reasonable time after informing Manager or being informed of the existence of any such defect.
 - (i) To promptly inform Manager in writing of the existence on the Property of any Hazardous Material, the presence of which either:
 - (j) Requires investigation or remediation under any federal, state, or local laws, rules, codes, statures, regulations, orders, notices, determinations, ordinances, or other requirements; or
 - (k) Causes or threatens to cause a nuisance upon the Property or adjacent properties or poses or threatens to pose any hazard to the health and safety of any persons on or about the Property.
 - (I) To promptly take, at Owner's sole expense, all measures, including without limitation, the commission of inspections, tests, studies, and remediation activities to ensure that the

Property complies with all federal, state, or local laws, rules, codes, statues, regulations, orders, notices, determinations, ordinances, or any other requirements relating to any such Hazardous Materials. Furthermore, Owner, at Owner's sole expense, shall obtain and maintain and require all contractors and consultants to obtain and maintain liability insurance in an amount sufficient to adequately insure against any identified or suspected environmental hazard at the Property or any other hazards relating to any such inspections, tests, studies, and remediation activities. All such liability policies shall name Manager as an additional insured. Manager shall be entitled to receive certified copies of all such policies upon request.

(m) To promptly comply with and abide by, at Owner's sole expense, all laws, codes, statutes, regulations, orders, notices, determinations, ordinances, and any other requirements of any federal, state, municipal or other governmental authority, now in force or which may hereafter be in force, relating to the Property.

ARTICLE VII – INSURANCE

7.1 Unless Owner is self-insured, throughout the term of this Agreement, Owner shall purchase and maintain "all risks" property insurance coverage including "loss of rents", "business interruption/ extra expense" and any other coverages deemed necessary by Owner. Property covered shall include the building, its improvements, furnishings, trade fixtures, equipment and supplies. Any deductibles under this policy will be the responsibility of the Owner.

Prior to the Commencement Date of this agreement, and at each policy renewal thereafter, Owner shall provide Manager with a certificate of insurance which demonstrates this required property coverage, specifically including:

- At least 45 days notice to Manager of policy cancellation;
- The policy including a 'waiver of subrogation' against Manager.

Throughout the term of this agreement, Manager shall purchase and maintain Commercial General Liability insurance, issued in a form and by an insurer satisfactory to the Owner, on an occurrence basis against claims for bodily injury, personal injury, advertising injury and property damage. Such insurance shall have the following minimum limits:

\$2	,000,000	General Aggregate
\$2	,000,000	Products/ Competed Operations Aggregate
\$1	,000,000	Personal and Advertising Injury Limit
\$1	,000,000	Each Occurrence Limit
\$	300,000	Fire Damage, Per Fire
\$	10,000	Medical Expense, Per Person

Prior to the Commencement Date of this agreement, and at each policy renewal thereafter, Manager shall provide Owner with a certificate of insurance which demonstrates these required liability insurance limits and coverages, specifically including:

- At least 45 days notice to Owner of policy cancellation;
- Owner being added to the policy as an additional insured as respect claims arising out of the operations of Manager.

7.2 Waiver of Subrogation.

All policies of insurance required hereunder shall include a clause or endorsement denying the insurer any rights of subrogation against the other party to the extent rights have been waived by the insured before the occurrence of injury or loss. Manager and Owner waive any rights of

recovery against the other for injury or loss due to hazards covered by policies of insurance containing such a waiver of subrogation clause or endorsement to the extent of the injury or loss covered.

ARTICLE VIII - INDEMNIFICATION

- 9.1. Each party will indemnify, defend and hold the other harmless from and against any and all costs, liabilities, losses, damages and expenses (including reasonable attorneys' fees) (collectively, "Losses") resulting from any claim, suit, action, or proceeding (each, an "Action") brought by any third party against the other or its affiliates alleging (i) personal injury caused by the negligence or willful misconduct of the other party; and (ii) any violation or failure to comply with this Agreement. Each party agrees that its obligation to indemnify hereunder includes an obligation to indemnify for losses resulting from death or injury to such party's employees, and each party accordingly hereby waives any immunities it now has or hereafter may have under any Industrial Insurance Act or other workers compensation, disabilities benefit or other similar act which would otherwise be applicable in the case of such a claim. Owner will indemnify, defend and hold Manager, its affiliates, employees and agents harmless from and against any and all Losses resulting from or arising out of any Action brought against Manager, its affiliates, employees or agents alleging any damage or destruction to the Property, Manager equipment or other customer equipment caused by Owner, its employees or agents.
- No Effect on Insurance. Nothing in this Article shall be deemed to affect any party's rights under any insurance policy procured by such party or under which such party is an insured or an additional insured. It is the intention of the parties that Manager be included as an insured under Owner's Commercial General Liability policy to cover inherent and operational hazards associated with the Property. It is thus understood that if bodily injury, property damage or personal injury liability claims are brought or made against Manager or Owner, or both, based upon the alleged negligence of Manager in performing its services hereunder, which are covered by Owner's Commercial General Liability Insurance, such coverage for Manager shall not be impaired, reduced or barred by the above indemnity provisions. All indemnities contained in this Agreement shall survive the expiration or termination of this Agreement. Each party's indemnification obligations hereunder shall be subject to (i) receiving prompt written notice of the existence of any Action; (ii) being able to, at its option, control the defense of such Action; (iii) permitting the indemnified party to participate in the defense of any Action; and (iv) receiving full cooperation of the indemnified party in the defense thereof.
- 9.3 <u>Notice</u>. Each party's indemnification obligations hereunder shall be subject to (i) receiving prompt written notice of the existence of any Action; (ii) being able to, at its option, control the defense of such Action; (iii) permitting the indemnified party to participate in the defense of any Action; and (iv) receiving full cooperation of the indemnified party in the defense thereof.

ARTICLE IX - COSTS AND EXPENSES

- 10.1 <u>Costs and Expenses of Manager</u>. Except as otherwise expressly provided herein, all costs and expenses incurred by or on behalf of Manager in performing its obligations hereunder shall be borne solely by Manager, including, without limitation, the following expenses or costs in connection with the operation and management of the Property.
 - (a) Cost of gross salary and wages, payroll taxes, insurance, workers' compensation, pension benefits and any other benefits of Manager's supervisory and home office personnel;
 - (b) General accounting and reporting services, as such services are considered to be within the reasonable scope of Manager's responsibilities to Owner;
 - (c) Cost of forms, stationery, ledgers and other supplies and equipment used in Manager's home office, except for such items as are specifically required for, or proprietary to, the Property;
 - (d) Cost or pro rata cost of telephone and general office expenses incurred on the Property by Manager for the operation and management of properties other than the Property;

- (e) Cost or pro rata cost of data-processing equipment whether located at the Property or at Manager's home office;
- (f) Cost or pro rata cost of data processing provided by computer service companies;
- (g) Cost of automobile purchases and/or rentals, unless the automobile is being provided by Owner;
- (h) Costs attributable to claims, losses and liabilities arising from (i) any breach of this Agreement by Manager or (ii) the negligence, recklessness, willful misconduct, fraud or criminal acts of Manager's employees, agents, contractors, subcontractors or associates;
- (i) Cost of comprehensive crime insurance purchased by Manager for its own account;
- (j) Costs for meals, travel and hotel accommodations for Manager's home or regional office personnel who travel to and from the Property, unless expressly authorized by Owner; and
- (k) Cost of obtaining and maintaining such licenses and qualifications to do business as are required by Section 4.12 (a).
- 10.2 <u>Payment of Other Costs.</u> Manager may make the expenditures from the Bank Account, provided that Manager shall not issue a check for any purchase or work in excess of the limit on the amount authorized for non-emergency purchases and repairs in Section 1.3 without Owner's approval except in emergencies as authorized in Section 4.4.
- Insufficient Funds in Bank Account. Manager shall not be required to expend any of its own funds for disbursements chargeable to Owner. If there are insufficient funds in the Bank Account for a disbursement, Manager may, after notifying Owner of such insufficiency in writing, defer making any disbursement until Owner has furnished the funds necessary for such disbursement.
- Nonpayment. If Manager fails to make any payment when required or fails to perform any act required under this Agreement, then Owner, after 10 days' written notice to Manager (or, in the case of any emergency, without notice) and without waiving or releasing Manager from any of its obligations hereunder, may (but shall not be required to) make such payment or perform such act. Owner shall have (in addition to any other right or remedy) the right to offset all costs and expenses incurred in exercising its rights under this Section 10.6 against any sums due or to become due to Manager, including, without limitation, the Management Fee and any costs and expenses reimbursable by Owner.

ARTICLE X - COMPENSATION

- 11.1 <u>Management Fee</u>. Owner shall pay Manager as compensation for the management services rendered hereunder a management fee (the "Management Fee") at the rate specified in Section 1.7. Such Management Fee shall be payable on the last day of each accounting month. Manager shall withdraw such Management Fee from the Bank Account and shall account for it as required by Section 5.2.
- 11.2 <u>Construction Management Services</u>. Owner shall pay Manager an hourly rate of \$175 as compensation for any construction management services requested by Owner. A separate agreement covering these services shall be executed between the parties.

ARTICLE XI - TERMINATION

- 12.1 <u>Termination</u>. This Agreement shall terminate at the election of:
 - (a) Manager, upon 60 days' written notice to Owner;
 - (b) Owner, upon 60 days' written notice to Manager;
 - (c) Owner, upon 30 days' written notice to Manager, if any of the following events occurs:

- Manager shall be in default in the performance of any of the covenants or agreements contained herein, and such default shall continue for 30 days after written notice thereof from Owner to Manager specifying the particulars of such default;
- ii. The Property is damaged or destroyed and Owner decides not to rebuild or restore the Property; or
- (d) Owner, immediately, if Manager commits any fraud or breach of trust, or makes any material misrepresentation to Owner.

12.2 Obligations Upon Termination.

- (a) Upon termination of this Agreement for any reason, Manager shall deliver the following to Owner at Owner's expense on or before thirty (30) days following the termination date:
 - i. A final accounting, reflecting the balance of income and expenses for the Property as of the date of termination;
 - ii. Any balance of monies of Owner then held by Manager with respect to the Property, net of amounts owed to Manager or other obligations pursuant to this Agreement; and
 - iii. All keys, property, supplies, contracts, books and records furnished by Owner, drawings, executed leases, insurance policies, unpaid bills and correspondence, in the Manager's possession at the time of termination and all other papers or documents pertaining to the Property which are the property of Owner. Manager shall be allowed to retain originals or copies of books and records as required to comply with applicable law and its corporate policies.
 - iv. Manager shall remove all signs that it may have placed at the Property containing its name.
- (b) Upon termination of this Agreement for any reason, Manager's right to withdraw funds from the Bank Account or any other account which contains funds collected in connection with the Property shall terminate.
- (c) Within thirty (30) days after termination of this Agreement, Owner shall reimburse Manager for all expenses incurred by Manager and properly reimbursable by Owner under Section 10.2 and pay all fees properly payable to Manager for services rendered up to the date of such termination.

ARTICLE XII - MISCELLANEOUS

- 13.1 <u>Marketing</u>. Owner agrees that during the term of this Agreement Manager may publicly refer to Owner, orally and/or in writing, as a customer of Manager.
- 13.2 <u>Governing Law.</u> This Agreement is made under and will be governed by and construed in accordance with the laws of the State of Washington.
- 13.3 <u>Waiver</u>. The waiver or breach of any term, covenant, or condition of this Agreement shall not be deemed to be a waiver of such term, covenant, or condition of any subsequent breach of the same or any other term, covenant, or condition contained herein.
- Notices. Any notice of communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by email, confirmed facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving party. Such notice will be deemed to have been given as of the date it is delivered, mailed, emailed, faxed or sent, whichever is earlier.

- 13.5 <u>Relationship of Parties</u>. Manager and Owner are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between Manager and Owner. Neither Manager nor Owner will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided herein.
- 13.6 <u>Entire Agreement</u>. This Agreement, including all documents incorporated herein by reference, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter.
- 13.7 <u>Attorneys' Fees</u>. In the event either party requires the services of an attorney in connection with enforcing the terms of this Agreement, the substantially prevailing party shall be entitled to a reasonable sum for attorneys' fees and all costs incurred in connection therewith.
- 13.8 <u>Modification</u>. This Agreement may not be modified unless such modification is in writing and signed by both parties to this Agreement.
- 13.9 Time. Time is of the essence with respect to the performance of this Agreement.

ARTICLE XIII - DEFINITIONS

- 14.1 <u>"Fees"</u> means, collectively, all sums of money becoming due and payable to Manager.
- "Hazardous Substances" means any hazardous, toxic, or dangerous substance, waste, or material, which is or becomes regulated under any federal, state or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup, including without limitation any substance, waste, or material which now or hereafter is designated as hazardous in or for the purpose of any federal, state or local statute, ordinance, rule or other regulation.
- 14.3 <u>"Property"</u> means the physical space(s) or location(s) at or to which Manager shall provide Services.
- 14.4 <u>"Services"</u> means the specific service(s) provided by Manager pursuant to any agreement between Manager and Owner.
- 14.5 <u>"Written"</u> means anything reduced to a tangible form by a party, including a printed or hand written document, e-mail or other electronic format.

Authorized representatives of Owner and Manager have read the foregoing and all documents incorporated therein and agree and accept such terms effective as of the date first above referenced.

OWNER	MANAGER		
CITY OF REDMOND	PREM Group Holdings, LLC		
Date:	Date:		
Signature:	Signature:		
	Christopher Holden Director of Asset Services		

(Acknowledgment for City of Redmond)							
STATE OF WASHINGTON COUNTY OF KING)))						
I certify that I know or have same, and said person acknowled to execute the instrument, and	lged that he signed thi						
to be the free and voluntary act	t of such party for the	uses and purposes	therein mentione	ed.			
IN WITNESS WHEREOF, I have, 2012.	hereunto set my hand	and affixed my of	ficial seal this	day of			
			Notary Public in a	nd for the State			
	of						
	My commission expire	es		·			
(Acknowledgment for PREM	l Group)						
STATE OF WASHINGTON)						
COUNTY OF KING)						
I certify that I know or have sai before me, and said person ac authorized to execute the instr Holdings, LLC, an Oregon limite uses and purposes therein men	knowledged that he sument, and acknowled d liability company, to	igned this instrum Iged it as Director	ent, on oath star of Asset Service	ted that he was s, PREM Group			
IN WITNESS WHEREOF, I have, 2012.	hereunto set my hand	and affixed my of	ficial seal this	day of			

	Attachment A
	Notary Public in and for the State
of	, residing at
My commission expires	

EXHIBIT A

PROJECT DESCRIPTION

The Property is described as the land and improvements known as 7810 Brown Street and 16240 Redmond Way, Redmond, Washington 98073. The Property is legally described as follows:

SIKES 2ND ADD TO REDMOND LOTS 3-4 LESS E 16FT OF LOT3 TGW LOTS 5-6 & W 6 F TOF LOT 7 LESS N 115 FT THOF PARCEL B:

TOGETHER WITH AN EASEMENT FOR A COMMON DRIVEWAY ON THE SOUTH 20 FEET OF THE WEST 240 FEET OF THE EAST 290 FEET OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 25 NORTH, RANGE 5 EAST W.M., IN KING COUNTY, WASHINGTON.

SIKES 2ND ADD TO REDMOND NLY 100 FT OF 5-6 & NLY 100 FT OF WLY 35 FT OF 7