

Parking Lease Agreement for Parking in _____ between the City of Durham and Greenfire Development, LLC

**PARKING LEASE AGREEMENT
FOR PARKING IN _____ BETWEEN**

THE CITY OF DURHAM

AND

GREENFIRE DEVELOPMENT, LLC

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS.....	1
Section 1.1 Defined Terms.	1
ARTICLE II GRANT OF RIGHTS	2
Section 2.1 Grant.....	2
Section 2.2 Leased Spaces.....	3
ARTICLE III TERM	3
Section 3.1 Term.....	3
Section 3.2 Renewal.....	3
ARTICLE IV RENT.....	3
Section 4.1 Basic Rent and Additional Rent.....	3
Section 4.2 Adjustment of Basic Rent.....	3
Section 4.3 Nondiscriminatory Pricing; Fair Market Value.....	4
Section 4.4 Economic Incentive.....	4
Section 4.5 Payment of Rent.....	4
Section 4.6 Late Charges.....	4
Section 4.7 No Accord and Satisfaction.....	4
ARTICLE V ACCOUNTING.....	4
Section 5.1 Intentionally Omitted.....	4
Section 5.2 Intentionally Omitted.....	4
ARTICLE VI LANDLORD’S COVENANTS.....	4
Section 6.1 Repairs and Maintenance.....	4
Section 6.2 Services.....	5
Section 6.3 Right of Access; Duty to Provide Substitute Parking.....	5
Section 6.4 Covenants Not Covenants of Officials Individually.....	5
Section 6.5 Additional Covenants.....	5
Section 6.6 Covenant to Provide Security Services After Term.....	5
ARTICLE VII TENANT’S COVENANTS.....	6
Section 7.1 Claims and Demands.....	6
Section 7.2 Compliance with Laws and Contracts.....	6
Section 7.3 Alterations.....	6
Section 7.4 Subordination.....	6
Section 7.5 Estoppel Certificate.....	6
Section 7.6 Surrender of Possession; Holding Over.....	7
Section 7.7 Additional Covenants.....	7
ARTICLE VIII INDEMNIFICATION.....	7
Section 8.1 Tenant Indemnity.....	7
ARTICLE IX INSURANCE.....	8
Section 9.1 Insurance.....	8

ARTICLE X DEFAULT AND REMEDIES	9
Section 10.1 Tenant’s Default	9
Section 10.2 Tenant’s Opportunity to Cure	9
Section 10.3 Landlord’s Remedies	9
Section 10.4 Re-letting Leased Spaces	10
Section 10.5 Landlord’s Default	10
Section 10.6 Landlord’s Opportunity to Cure	10
Section 10.7 Tenant’s Remedies:	10
Section 10.8 Punitive, Consequential, or Special Damages.	11
Section 10.9 Force Majeure	11
ARTICLE XI MISCELLANEOUS	11
Section 11.1 Taking	11
Section 11.2 Assignment	11
Section 11.3 No Warranty	12
Section 11.4 Survival	12
Section 11.5 Notices	12
Section 11.6 Successors	14
Section 11.7 Severability	14
Section 11.8 Execution in Counterparts	14
Section 11.9 Applicable Law	14
Section 11.10 Non-Waiver	14
Section 11.11 Entire Agreement; Memo of Lease	14
Section 11.12 Performance of Government Functions	14
Section 11.13 Landlord Policy	14
Section 11.14 No Partnership	14
Section 11.15 No Third Party Rights Created	14
Section 11.16 Modifications	15
Section 11.17 Leasehold Mortgage Provisions	15

PARKING LEASE AGREEMENT FOR PARKING IN _____ BETWEEN THE CITY OF DURHAM AND GREENFIRE DEVELOPMENT, LLC

THIS AGREEMENT (this “Lease”) is dated, made, and entered into as of _____, 2009 (“Effective Date”), by and between the **CITY OF DURHAM**, a North Carolina municipal corporation (“Landlord”), and **GREENFIRE DEVELOPMENT, LLC**, a North Carolina limited liability company (“Tenant”).

WITNESSETH:

WHEREAS, Landlord and Tenant entered into an incentives agreement between, entitled, “Economic Incentive Contract for Capital Investments for “Smaller Properties” and “Hill Building” in Downtown Durham,” dated _____, 2009, hereinafter, “Development Agreement.”

WHEREAS, pursuant to the Development Agreement, Landlord has agreed to enter into certain parking lease agreements with Tenant as part of the Development Agreement incentive package.

WHEREAS, Landlord is owner of _____, which is also known as _____, located at _____ in the downtown area of the City of Durham (the “Parking Facility”);

WHEREAS, Landlord wishes to enter into this Lease to lease certain parking spaces [OR THE ENTIRE LOT, IN THE CASE OF LOT 20] in the Parking Facility to Tenant;

WHEREAS, the acceptance of this Lease for and on behalf of Landlord has been duly approved by the Durham City Council.

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this Lease and for other good and valuable consideration, the parties agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 **Defined Terms.** Capitalized terms used in this Lease shall have the following meanings:

(a) “Development Agreement” means the aforementioned Development Agreement among Tenant, Greenfire Development, LLC and the City of Durham dated _____, as amended from time to time.

(b) “Certificate of Compliance” is a certificate of compliance (also sometimes called a certificate of occupancy) issued by the City-County Inspections Department in accordance with N.C. General Statutes §160A-423. Nothing in this Agreement is to be construed to reduce the requirements that must be complied with before such a certificate can be issued, and nothing in this Agreement is intended to constitute a covenant by the City that a Certificate of Compliance shall be issued.

(c) “Leased Spaces” means _____ (____) parking spaces in the Parking Facility that are leased to Tenant pursuant to this Lease.

(d) “Parking Facility” means _____, also known as _____, which is located at _____ and is assigned parcel identification number _____.

(e) “Public Spaces” means the parking spaces in the Parking Facility, other than the Leased Spaces, which Public Spaces will be available to members of the general public on a first come, first served basis.

(f) Smaller Properties. “Smaller Properties” means that portion of the Greenfire Improvements located within the CDA and identified by the following street address and Durham County tax parcel identification numbers:

<u>Address</u>	<u>Parcel Identification Number</u>
108 W. Parrish St.	102789
107 Church St.	102835
104 City Hall Plaza	102948

(g) Hill Building Property. The “Hill Building Property” means the portion of the Greenfire Improvements where the Hill Building Qualified Investment is to be made—property located within the CDA and identified by the following Durham County tax parcel identification numbers: (a) 103044 and (b) 103043.

(h) “Rules and Regulations” means the rules and regulations established by Landlord governing use of the Parking Facility by Tenant and members of the general public, a copy of which is attached hereto as Exhibit A, as amended or modified from time to time by Landlord.

(i) “Under Construction” means that Company has signed a contract with a general contractor for the construction or renovation and the general contractor (or a subcontractor employed by such contractor) has begun construction, demolition or renovation.

(j) *(Add definition for the County parking deck that will take the place of Lot 8)*

ARTICLE II

GRANT OF RIGHTS

Section 2.1 Grant. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, during the Term, the Leased Spaces in accordance with this Lease, together with the right to use (if part of the subject Parking Facility) all driveways, aisles, elevators, stairways, lanes, sidewalks, entrances, curb cuts and other areas of the Parking Facility reasonably necessary or desirable for the use of the Leased Spaces and for pedestrian and vehicular ingress, egress, and regress to and from the Parking Facility. The term of this Lease shall commence on the date (the “Commencement Date”) that is the date of execution of this Agreement on or before the commencement of construction activities but not later than June 30, 2010. However, if the Tenant and the City agree on an earlier date, as evidenced by a written amendment executed by the Tenant and the City Manager, that earlier date shall be the Commencement Date. The rights and obligations of the parties under this Lease shall not commence until the Commencement Date, including Tenant’s obligations hereunder to pay Rent. During the Term, Tenant shall, and may peacefully have, hold and enjoy the Leased Spaces and the other rights granted to Tenant hereunder, subject to the other terms of this Lease. The commitment from the City to lease these spaces will end upon the expiration of the Term.

Section 2.2 Leased Spaces.

(a) Except on holidays, Tenant shall have exclusive use of and access to the Leased Spaces each day from 7:00 a.m. to 7:00 p.m. Monday through Friday (the “Exclusive Times”).

(b) Tenant shall have the right (without the consent of Landlord) to grant licenses (or parking permits or subleases, as applicable) to third parties for the use of the Leased Spaces during the Exclusive Times; provided, however, that the terms of such grants shall be either for month-to-month increments (hereinafter any such third party will be referred to as “Sublessee”). This Lease gives Tenant rights that may be enjoyed by Tenant’s Sublessee, but Tenant’s Sublessees themselves do not have rights under this Lease against the Landlord, and Tenant’s Sublessees do not have the right to enforce any provisions of this Lease. Nothing in this Lease gives Tenant any rights with respect to the use of parking spaces other than the Leased Spaces.

(c) The rights of Tenant under this Section 2.2 are subject to Landlord’s rights under Section 6.3 of this Lease.

ARTICLE III

TERM

Section 3.1 Term. The term of this Lease shall commence at 12:01 A.M. on the Commencement Date, defined in Section 2.1, and shall continue until _____, not to exceed 20 years.

Section 3.2 Renewal. Intentionally Omitted.

Section 3.3 Extension. Intentionally Omitted.

ARTICLE IV

RENT

Section 4.1 Basic Rent and Additional Rent. Tenant covenants and agrees to pay to Landlord all of the following (all of which is collectively referred to as “Rent”): (a) Monthly basic rent (“Basic Rent”) in the sum of FORTY-FIVE Dollars (\$45.00) for the first 10 years of the Term and FIFTY-FIVE Dollars (\$55.00) for the last 10 years of the Term for each Leased Space, to be paid in advance on the first day of each month during the Term for the upcoming month or portion thereof, provided that Rent for the last calendar month of the Term or portion thereof shall be due and payable on the last day of the Term.

(b) Additional rent (“Additional Rent”) in the amount of any payment referred to as such in any portion of this Lease that accrues while this Lease is in effect, which shall include any and all charges or other amounts that Tenant is obligated to pay Landlord under this Lease other than Basic Rent.

(c) This Section 4.1 is subject to Section 4.5(b).

Section 4.2 Adjustment of Basic Rent. Landlord may not change the Basic Rent at any time during the first 10 years of the Term; however, during the last 10 years of the Term, if the Basic Rent is less than the monthly rental rate of other city facilities of comparable type, which rental rate is established by the City Council, the Basic Rent may be increased to the same rate of such comparable city facility or facilities by giving Tenant no less than thirty (30) days prior written notice. Notwithstanding

anything to the contrary in this Lease, changes to the Basic Rent made pursuant to this Section shall not require a written amendment to this Lease and shall be deemed effective upon Tenant's receipt of Landlord's notice as required in this Section.

Section 4.3 **Nondiscriminatory Pricing; Fair Market Value.** Intentionally Omitted.

Section 4.4 **Economic Incentive.** Intentionally Omitted.

Section 4.5 **Payment of Rent.**

(a) Tenant shall pay the Basic Rent and all Additional Rent promptly when due, in cash or by check, in lawful money of the United States of America on the first day of each month during the Term, without notice or demand, payable to Landlord and delivered to its offices at the address as stated in this Lease or to such other person and place as may be designated by written notice from Landlord to Tenant from time to time. The amount paid by Tenant shall be without deduction, diminution, abatement, counterclaim, or set-off of any amount or for any reason whatsoever, except as permitted by the terms of this Lease. If Tenant presents to Landlord more than twice during the Term checks or drafts not honored by the institution upon which they are issued, then Landlord may require that future payments of Rent and other sums thereafter payable be made by certified or cashier's check.

(b) If the Commencement Date is other than the first day of a calendar month or if this Lease terminates on other than the last day of a calendar month, then the Rent for such month or months shall be prorated and paid in advance. The payment for such prorated month shall be calculated by multiplying the Rent for such month by a fraction, the numerator of which shall be the number of days of the Term occurring during said commencement or termination month, as the case may be, and the denominator of which shall be 30.

Section 4.6 **Late Charges.** Other remedies for non-payment of Rent notwithstanding, any Rent that is not paid within 10 days after the due date shall accrue interest at the rate of three percent (3%) simple interest per month, but not exceeding the maximum rate allowed by law, until paid in full, which interest shall be deemed Additional Rent.

Section 4.7 **No Accord and Satisfaction.** No payment by Tenant or receipt by Landlord of a lesser amount than the Rent due shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any check or letter accompanying any payment as Rent be deemed an accord and satisfaction. Landlord may accept such payment without prejudice to Landlord's right to recover the balance of Rent due or to pursue any other rent provided in this Lease.

ARTICLE V

ACCOUNTING

Section 5.1 **Accounting of Leased Spaces.** Intentionally Omitted.

Section 5.2 **Books and Records.** Intentionally Omitted.

ARTICLE VI

LANDLORD'S COVENANTS

Section 6.1 **Repairs and Maintenance.** Landlord shall maintain the Parking Facility in good order and repair during the Term. If damage to the Parking Facility is caused by the act or neglect of

Tenant, its agents, employees, or contractors (but not invitees (other than agents, employees, or contractors), licensees or sublessees of Tenant), then Tenant shall, at Landlord's option, repair such damage at Tenant's expense or pay Landlord the reasonable cost of repairing the damage. Landlord agrees that customary use of a parking space and the wear and tear resulting therefrom shall not give rise to any obligation on Tenant's behalf to repair or maintain the Parking Facility or any of the Leased Spaces.

Section 6.2 Services. Landlord shall operate the Parking Facility or cause the Parking Facility to be operated in a first-class, efficient and proper businesslike manner consistent with industry standards for the operation of comparable parking facilities in the Raleigh-Durham area that are operated as monthly and/or hourly parking facilities.

Section 6.3 Right of Access; Duty to Provide Substitute Parking.

(a) Landlord may enter the Leased Spaces at any time during the Term to perform Landlord's obligations under this Lease, to repair and maintain the Parking Facility and Leased Spaces, to exercise Landlord's rights under this Lease, and to enforce Tenant's obligations under this Lease. In addition to the rights of Landlord specified in this Section 6.3, Landlord shall also have the right to close Leased Spaces on a temporary basis in order to accommodate improvements to the Parking Facility, provided, that if Landlord closes any Leased Spaces (temporarily) as is permitted under this Section 6.3, (with the exception of the Leased Spaces eliminated for necessary ADA accessible spaces to be created in Lot 20) then Landlord shall be obligated to provide an equal number of replacement spaces reasonably near the Parking Facility subject to availability.

(b) With the exception of the Leased Spaces eliminated for necessary ADA accessible spaces to be created in Lot 20, if Landlord requires the closure of any portion of the Parking Facility on a temporary basis in order to perform its obligations under this Lease or to repair and maintain the Parking Facility or to exercise its rights under subsection (a) above, so that Tenant is unable to use, in a commercially reasonable manner, the leasehold interest granted to Tenant by Section 2.1 of this Lease, Landlord shall (i) provide Tenant with as much prior notice as is practical under the circumstances, but, except in case of emergency, at least twelve (12) hours, (ii) use commercially reasonable efforts to complete its work as expeditiously as reasonably possible and to restore Tenant's use of the Parking Facility and Leased Spaces, and (iii) make available to Tenant substitute parking spaces in the Parking Facility to the extent substitute parking spaces are not committed to others at the time, or, if such spaces are not available, then Landlord will use all reasonable efforts to provide substitute spaces in an alternate location, in structured parking facilities or on surface lots, reasonably near the Parking Facility (any such substitute or alternate space shall hereinafter be called a "Substitute Space"). To the extent any such Leased Spaces are closed for the reasons described in this Section 6.3(b), then Rent shall abate with respect to any such Leased Space; provided, however, that to the extent Landlord provides Tenant with Substitute Spaces, then Rent shall not abate. This Section 6.3(b) does not apply to closure resulting from damage caused by fire or other casualty.

Section 6.4 Covenants Not Covenants of Officials Individually. No covenant, stipulation, obligation, or agreement by Landlord contained in this Lease shall be deemed to be a covenant, stipulation, obligation, agreement, or personal liability of any present or future officer, official, agent, or employee of Landlord in such person's individual capacity.

Section 6.5 Additional Covenants. Intentionally Omitted.

Section 6.6 Covenant to Provide Security Services After Term. Intentionally Omitted.

ARTICLE VII

TENANT'S COVENANTS

Section 7.1 Claims and Demands. Tenant shall notify Landlord of any claim, demand, or charge asserted or proposed to be asserted against or upon the Parking Facility or Leased Spaces within five (5) days of receiving notice thereof.

Section 7.2 Compliance with Laws and Contracts. Tenant shall comply with all applicable federal, State, and local statutes, regulations, ordinances, orders, permits, licenses, and requirements, as they may be amended, changed, or adopted from time to time, relating to Tenant's duties and obligations under this Lease. Tenant shall comply with the Rules and Regulations.

Section 7.3 Alterations. Tenant shall not make any alteration, additions, or other improvement in or to the Parking Facility or Leased Spaces or install equipment of any kind in the Parking Facility without Landlord's prior written consent. Any such alterations, additions, or other improvements that are approved by Landlord shall become fixtures to the Parking Facility and the property of Landlord immediately upon their installation or attachment to the Parking Facility.

Section 7.4 Subordination.

(a) This Lease shall be subject and subordinate at all times to the lien of any deed of trust or other encumbrance(s) that may now or at any time be made upon the Parking Facility or Landlord's interest in the Parking Facility. Tenant shall execute and deliver any instrument(s) required in connection with subordinating this Lease to the lien of any such deed of trust or other encumbrance(s) as shall be desired by any party secured thereby. If Landlord's interest under this Lease is transferred by reason of foreclosure or other enforcement proceedings, Tenant shall be bound to the transferee under the terms, covenants and conditions of this Lease for the remainder of the Term and agrees to attorn to the transferee.

(b) So long as no Event of Default has occurred, this Lease shall remain in full force and effect for the full Term hereof, and Tenant's occupancy of and rights to use the Leased Space shall not be disturbed by any termination of any such mortgage, deed of trust, or ground lease or by any foreclosure proceeding or any deed in lieu of foreclosure or other such transfer, and the subordination set forth in Section 7.4(a) is made subject to Tenant's non-disturbance rights under this Section 7.4(b). Landlord shall cause its mortgagee and/or ground lessor to execute and deliver a subordination, non-disturbance and attornment agreement, in form and substance reasonably acceptable to all parties, as soon as reasonably possible after the execution hereof.

Section 7.5 Estoppel Certificate.

(a) Tenant shall, without charge, at any time and from time to time, within twenty (20) days after request by Landlord or Landlord's mortgagee, certify by written instrument, duly executed, acknowledged and delivered, addressed to Landlord or any party designated by Landlord, that (i) this Lease is unmodified and in full force and effect (or if there shall have been modifications that the same is in full force and effect as modified and stating the modifications) and the dates to which the rent and other charges have been paid, (ii) the date of expiration of the Term, (iii) the Rent then payable under this Lease, (iv) whether or not, to the best knowledge of the officer executing such certificate on behalf of Tenant, Landlord is in default in performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which the person executing such certificate may have knowledge, and (v) any other matter reasonably requested by Landlord.

(b) Landlord shall, without charge, at any time and from time to time, within twenty (20) days after request by Tenant or Tenant's mortgagee, certify by written instrument, duly executed, acknowledged and delivered, addressed to Tenant or any party designated by Tenant, that (i) this Lease is unmodified and in full force and effect (or if there shall have been modifications that the same is in full force and effect as modified and stating the modifications) and the dates to which the rent and other charges have been paid, (ii) the date of expiration of the Term, (iii) the Rent then payable under this Lease, (iv) whether or not, to the best knowledge of the officer executing such certificate on behalf of Landlord, Tenant is in default in performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which the person executing such certificate may have knowledge, and (v) any other matter reasonably requested by Tenant.

Section 7.6 Surrender of Possession; Holding Over. Upon the expiration or earlier termination of the Term, Tenant shall surrender the Leased Spaces and all keys, gate cards, parking passes, security cards, and locks to Landlord in good order and repair, ordinary wear and tear excepted. If Tenant does not surrender possession of the Leased Spaces at the expiration or earlier termination of the Term, Landlord shall be entitled to recover compensation for such use and occupancy at one hundred fifty percent (150%) of the Rent payable prior to the expiration or earlier termination of the Term, and Tenant shall be liable to Landlord for any loss or damage it may sustain by reason of Tenant's failure to surrender possession of the Leased Spaces immediately upon the expiration or earlier termination of the Term.

Section 7.7 Additional Covenants. Tenant covenants and agrees: (i) that its use of the Parking Facility, including the Leased Spaces and all other parking spaces in the Parking Facility used by Tenant, its licensees and sublessees, will not constitute a nuisance and will not interfere, in any material and adverse manner, with the use of the Parking Facility by Landlord, its licensees and sublessees, (ii) to use the Leased Spaces only for the parking of automobiles, passenger trucks, delivery vans, and other private vehicles; (iii) not to strip, damage, or deface the Parking Facility or store vehicles or equipment in the Parking Facility; (iv) not to use the Parking Facility in any manner that is unlawful, noisy, offensive, or injurious to any person or property and shall prohibit such use in all licenses or subleases of any Leased Space; (v) not to place upon the interior or exterior of the Parking Facility any placard, sign, lettering, or covering, except for any such signage Landlord has approved (subject to Section 7.3); and (vi) not to cause in the Parking Facility the generation, treatment, storage, or disposal of any hazardous substances or materials or toxic substances of any kind as described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6901 et seq.), any regulations adopted under these acts, or all other applicable federal, State, and local statutes, regulations, ordinances, orders, permits, licenses, and requirements, as they may be amended, changed, or adopted from time to time, concerning environmental protection.

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Tenant Indemnity. Tenant shall indemnify and save harmless Landlord against and from all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges, and expenses, including, without limitation, attorneys' fees and disbursements, that may be imposed upon or asserted against, or reasonably incurred by, Landlord or any agency or subdivision thereof or its respective agents, employees, officers, or officials (the "Tenant Indemnitees") by reason of the acts or omissions of Tenant or its affiliates in the performance of each of their obligations under this Lease or by reason of the acts or omissions of Sublessees as defined in Section 2.2(d) above, except to the extent that such liability or other loss is caused proximately, in whole or in part, by the negligent or willful acts of Tenant Indemnitees. Tenant shall defend any and all legal proceedings commenced against any Tenant Indemnitee arising under Tenant's obligations under this Article using legal counsel satisfactory to Landlord. Landlord shall

use its best efforts to give Tenant reasonable notice of any legal proceeding of which it has actual knowledge. Tenant shall deliver to Landlord copies of documents served in any legal proceeding arising in connection with the Parking Facility and, whenever requested by Landlord, shall advise Landlord as to the status of such legal proceeding; provided, however, that any such consultation shall not cause Tenant to waive any claim of privilege, including, without limitation, attorney-client privilege. If Tenant fails to defend any such legal proceeding, Landlord shall have the right (but not the obligation) to defend the proceeding at Tenant's expense. Tenant shall not settle any such legal proceeding without Landlord's prior written consent unless the effect of such settlement shall be to release all Tenant Indemnitees from all liability with respect to such legal proceeding (and all claims and liabilities asserted therein). For purposes of this section, "legal proceedings" includes legal actions and administrative proceedings.

ARTICLE IX

INSURANCE

Section 9.1 **Insurance.** Tenant shall maintain insurance not less than the following:

Commercial General Liability, covering

- Broad form general liability coverage, including XCU hazards and contractual liability
- City of Durham must be named additional insured, and an original of the endorsement to effect the coverage must be attached to the certificate (if by blanket endorsement, then agent may so indicate in the GL section of the certificate, in lieu of an original endorsement)
- Combined single limit not less than \$1,000,000 per occurrence

Automobile Liability Insurance, covering

- Owned, hired, or borrowed vehicles
- Employee vehicles, if used in the conduct of tenant's business
- Combined single limit not less than \$1,000,000 per occurrence

Insurance shall be provided by:

- Companies authorized to do business in the State of North Carolina
- Companies with Best rating of A or better

Insurance shall be evidenced by a certificate:

- Providing notice to the City of not less than 30 days prior to cancellation or reduction of coverage
- Certificates shall be addressed to:
City of Durham, North Carolina
Attention: Finance Director
101 City Hall Plaza
Durham, NC 27701
- Both the insurance certificate and the additional insured endorsement must be originals and must be approved by the City's Finance Director before tenant may occupy the leased parking space.

Section 9.2 **Acceptable Insurers; Notice of Change in Coverage.** Intentionally Omitted.

Section 9.3 **Annual Certification.** Intentionally Omitted.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.1 Tenant's Default. The following shall be deemed defaults by Tenant under this Lease:

- (a) Tenant's failure to pay Rent or make any other payment under this Lease when it becomes due;
- (b) The failure or refusal of Tenant to perform fully and promptly any act, covenant, or obligation required under this Lease or to comply otherwise with any provision of this Lease;
- (c) If Tenant's leasehold estate is taken by execution or other process of law;
- (d) The entry of an order of relief for Tenant by a court of competent jurisdiction under any bankruptcy or insolvency laws;
- (e) The entry of an order of appointment by any court or under any law of a receiver, trustee or other custodian of the property, assets or business of Tenant;
- (f) The assignment by Tenant of all or any part of its property or assets for the benefit of creditors other than its stock or other equity interest in an unregulated subsidiary or joint venture; or
- (g) The levy of execution, attachment, or other taking of property (other than Tenant's stock or other equity interest in an unregulated subsidiary or joint venture), assets, or interest under this Lease of Tenant by process of law or otherwise in satisfaction of any judgment, debt, or claim, unless postponed by appeal, furnishing of bond, or other contest by Tenant as permitted by law.

Section 10.2 Tenant's Opportunity to Cure. Upon the occurrence of an event of default contained in Section 10.1(a) above, if Landlord shall provide to Tenant written notice of such default, Tenant shall have fifteen (15) days from the date that Tenant receives the notice to cure the default; provided, however, that Landlord shall not be obligated to provide Tenant with a notice of a default under Section 10.1(a) more frequently than two (2) times in any twelve (12) month period. Upon the occurrence of an event of default contained in Section 10.1(b) above, if Landlord shall provide to Tenant written notice of such default, Tenant shall have thirty (30) days to cure such default from the date that Tenant receives the notice to cure such default. If the nature of the event of default under Section 10.1(b) (which shall in no event be the payment of money) is such that Tenant reasonably cannot cure the default within the cure period, then Tenant shall have an additional reasonable amount of time to cure the event of default provided that Tenant has begun its efforts to cure the event of default within the cure period and Tenant continues its efforts to cure the event of default in a commercially reasonable manner. In addition, the provisions of Section 11.17(d) are incorporated herein as fully as if they were set forth herein verbatim. Upon the occurrence of the events described in Section 10.1(c), (d), (e), (f), or (g) or upon the failure by Tenant to cure the defaults in Section 10.1 (a) or (b) within the time periods described in this Section 10.2, an event of default shall occur (hereinafter an "Event of Default").

Section 10.3 Landlord's Remedies. This Lease shall be enforceable by actions for specific performance or injunction in addition to any other remedies available at law or in equity, including recovery of all attorneys' fees and court costs. If an Event of Default has occurred, then, subject to the requirements of Section 11.17, Landlord may, without further notice or demand, terminate this Lease, and Tenant immediately shall surrender the Leased Spaces to Landlord; and, if Tenant fails to do so, Landlord

shall have the right, without waiving any other remedy for possession or arrears in payments, to enter upon and take control of the Leased Spaces and to expel or remove Tenant and any other person who may be occupying the Leased Spaces. Landlord may also elect to deduct any and all incentive payments due to Tenant pursuant to the Development Agreement in an amount equal to the monetary damages claimed by the Landlord as a result of an Event of Default by Tenant under Section 10.1(a). Pursuit of any remedy available in law or at equity, shall not preclude the pursuit of any other remedy provided for in this Lease or any other remedy provided in law or equity, nor shall pursuit of any remedy provided in this Lease constitute a forfeiture or waiver of any amounts due to Landlord under this Lease or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions, and covenants contained in this Lease. In the event of any early termination of this Lease by Landlord, Tenant shall remain liable for the Rent to the date of such termination.

Section 10.4 Re-letting Leased Spaces. If Landlord reenters or retakes the Leased Spaces, all rents received by Landlord for re-letting the Leased Spaces after Tenant's default shall be applied first to the payment of such expenses as Landlord may have incurred in recovering possession of and re-letting the Leased Spaces (including brokerage fees) and second to the payment of any costs and expenses incurred by Landlord, either for making the necessary repairs to the Leased Spaces or in curing any default on the part of Tenant of any covenant or condition under this Lease. Any remaining rent shall be applied toward the payment of Rent due from Tenant, and Tenant expressly agrees to pay any deficiency then remaining. Landlord shall in no event be liable (nor shall Tenant be entitled to any set off) for Landlord's failure to re-let the Leased Spaces, and Landlord, at its option, may refrain from terminating Tenant's right of possession, and in such case may enforce the provisions of this Lease against Tenant for the full Term.

Section 10.5 Landlord's Default. Landlord shall be in default of its obligations under the Lease if Landlord fails to perform any of its obligations under this Lease.

Section 10.6 Landlord's Opportunity to Cure. Upon the occurrence of an event of default by Landlord contained in Section 10.5, Landlord shall have thirty (30) days to cure such default from the date it receives notice from Tenant of the event of default. If the nature of the event of default is such that Landlord reasonably cannot cure the default within that thirty (30) day period, then Landlord shall have an additional reasonable amount of time to cure the event of default provided that Landlord has begun its efforts to cure the event of default within that thirty (30) day period and Landlord continues its efforts to cure the event of default in a commercially reasonable manner. If Landlord fails to cure the default in the time provided in this Section 10.6 such failure shall constitute an event of default (a "Landlord Default").

Section 10.7 Tenant's Remedies. Upon the occurrence and during the continuance of any Landlord Default, Tenant shall have the right to pursue any remedy available at law or equity including the right to terminate this Lease. In case of such termination, all obligations that are still executory on both sides are discharged except that any right based on prior breach or performance survives, and the indemnification provisions shall remain in force. Before exercising its right pursuant to this Section 10.7 to terminate this Lease, Tenant shall give Landlord five (5) days notice of its intention, which notice shall distinctly state the Landlord Default upon which Tenant relies, and Tenant's right to terminate shall cease if Landlord cures the events of default contained in the notice. If Landlord is liable for breaching its obligation to provide parking spaces as required under this Lease, Landlord shall not be liable for more than an amount equal to the Basic Rent in effect at the time of the breach for the parking spaces that Landlord was required to supply less appropriate offsets, if any.

In addition to any right or remedy provided in this Lease, during any time that Tenant loses the right to use any or all of the Leased Spaces, for any reason not caused by Tenant's failure to comply with this Lease or Tenant's negligence or willful misconduct, Tenant shall be entitled to reduce or abate the amount of Rent it is obligated to pay to Landlord on a pro rata basis. Tenant's right to reduce or

abate its payment of Rent shall terminate immediately to the extent Tenant's right to use the Leased Spaces is restored.

Section 10.8 Punitive, Consequential, or Special Damages. Notwithstanding anything contained in this Lease to the contrary, in no event shall either Landlord or Tenant or any Person claiming through Landlord or Tenant be entitled to any special, consequential or punitive damages pursuant to or as a result of any breach of or default under this Lease by the other party.

Section 10.9 Force Majeure. If Landlord or Tenant shall be delayed, hindered, or prevented from performing any act required to be performed under this Lease by reason of fire, accident, casualty, act of God, strikes, lockouts, unavailability of materials, failure of power, laws or regulations, orders of a court or governmental agency, riot, insurrection, an act or failure to act of any tenant or subtenant of parking spaces, adverse weather conditions, war, or any reason beyond Landlord's reasonable control, then the time for performance of such act shall be extended for a period equivalent to the period of such delay, provided that Landlord has taken steps that are reasonable under the circumstances to mitigate the effects of such force majeure.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Taking.

(a) In the event that the Parking Facility, or any part thereof, or access thereto, shall be taken in condemnation proceedings or by exercise of any right of eminent domain or by agreement (such as deed in lieu of an eminent domain action) between Landlord and those authorized to exercise such right (any such matters being hereinafter referred to as a "taking"), Tenant shall be deemed to have assigned to Landlord, immediately before the taking, Tenant's rights, if any, to participate in any such condemnation proceedings.

(b) If at any time during the Term of this Lease there shall be a taking of any of the Parking Facility, so that as a result of the taking, or condemnation or deed in lieu of such taking, Tenant is unable to use, in a commercially reasonable manner, any portion of the Parking Facility for its intended purpose, this Lease shall remain unaffected except that the Rent shall be reduced proportionately in accordance with the number of Leased Spaces taken or which Tenant does not have use of in a commercially reasonable manner in accordance with this Lease. If the Parking Facility is only partially usable after any such taking, then the Landlord shall have the authority to reallocate parking spaces throughout the Parking Facility subject to availability, and to determine which parking spaces in the Facility will be available for those purposes. Section 11.17(j) shall not apply with respect to an amendment to effectuate the changes provided for in this subsection (b).

Section 11.2 Assignment.

(a) The rights of Tenant under this Section 11.2 are in addition to Tenant's rights under Section 2.2(d) and Section 11.17 of this Lease and shall not in any way restrict or limit Tenant's rights under Section 2.2(d) or Section 11.17 of this Lease.

(b) Except as permitted in this Section, Tenant shall not assign this Lease or any portion thereof or any benefit accruing under this Lease to any party without first obtaining the prior written consent of Landlord. Tenant may assign this Lease or any portion thereof without Landlord's consent to

any party who is not a Prohibited Person. Such assignment shall not relieve Tenant of its duties or obligations, including indemnity obligations, arising out of or pursuant to this Lease unless the assignee expressly assumes in writing (by an instrument in form and substance reasonably satisfactory to Landlord) all of Tenant's obligations under this Lease accruing after the date of assignment and Landlord consents to such release of Tenant and assumption by the assignee provided, however, that Tenant may assign all or a portion of this Lease to (i) an entity that is wholly owned or controlled by Tenant Greenfire Development, LLC and be relieved of the obligations under this Lease occurring after the date of the assignment by providing to Landlord an instrument in form and substance reasonably satisfactory to Landlord under which the assignee expressly assumes in writing all obligations and provisions of this Lease assigned to such entity.

(c) "Prohibited Person" shall mean any of the following:

(i) Any Person (A) that is in default or in breach of its obligations under any written agreement (including, but not limited to, any ground lease, any loan agreement or mortgage, or regulatory agreement) with Landlord, or (B) that directly or indirectly controls, is controlled by, or is under common control with a Person that is in default or in breach of its obligations under any written agreement with Landlord, unless this default or breach has been waived in writing by Landlord.

(ii) Any Person (A) that has been convicted in a criminal proceeding of a felony for any crime involving moral turpitude or that is an organized crime figure or is reputed (as determined according to the criteria specified in the next paragraph) to have substantial business or other affiliations with an organized crime figure, or (B) that directly or indirectly controls, is controlled by, or is under common control with a Person that has been convicted in a criminal proceeding of a felony for any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure.

The determination as to whether any Person is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure or directly or indirectly controls, is controlled by, or is under common control with a Person that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure shall be within the sole discretion of Landlord.

(iii) Any "enemy" or "ally of enemy" with which trading is prohibited by the Trading with the Enemy Act, codified at 50 USCS Appendix Section 3, as amended.

Section 11.3 No Warranty. Except as provided in Section 6.1, Tenant accepts the Leased Spaces from Landlord "As Is." TENANT AND LANDLORD EXPRESSLY AGREE THAT THERE ARE AND SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY SET FORTH IN THIS LEASE.

Section 11.4 Survival. It is understood and agreed that whether or not specifically provided herein, any provision of this Lease that by its nature and effect is required to be kept, observed, or performed after the expiration or early termination of this Lease shall survive the expiration or early termination of this Lease and shall remain binding upon and for the benefit of the parties until fully observed, kept, or performed.

Section 11.5 Notices. All notices, demands, and requests required or permitted under the provisions of this Lease shall, unless otherwise specified, be in writing, sent to the following addresses or

to such other address as the party to whom the notice is sent shall have designated in writing in accordance with the provisions of this Section:

As to Landlord: Mr. Thomas J. Bonfield, City Manager
City of Durham
101 City Hall Plaza
Durham, North Carolina 27701
Facsimile: 919-560-4949

In addition, notices of pending or threatened litigation involving Landlord and notices of alleged defaults by Landlord under this Lease shall also be sent to:

Patrick Baker, City Attorney
City of Durham
101 City Hall Plaza
Durham, North Carolina 27701
Facsimile: 919-560-4660

In addition, notices sent pursuant to Section 7.1 (which section is titled "Claims and Demands"), Article IX ("Insurance"), Section 10.6 ("Landlord's Opportunity to Cure") or Section 11.17 shall also be sent to:

Director of Transit and Parking Services
City of Durham
101 City Hall Plaza
Durham, North Carolina 27701
Facsimile: _____

In addition, if Landlord requests Tenant to do so, then notices to Landlord under Sections 7.1 shall also be sent to Landlord's Parking Manager at the address provided to Tenant by Landlord.

As to Tenant: Greenfire Development Real Estate Holdings, LLC
Attn: Michael Lemanski
101 W. Main Street
Durham, NC 27701
Facsimile: 919-821-8733

With copies to holders of mortgages as required by Section 11.17.

Notices, demands, or requests delivered pursuant to this Section shall be deemed to have been properly given and provided if delivered by one of the following methods: (i) hand delivery, (ii) delivered by express, registered, or certified mail of the United States Postal Service, return receipt requested, postage prepaid, (iii) delivered by United Parcel Service or Federal Express or (iv) by facsimile transmission with a copy delivered by one of the options contained in (i) through (iii). Each such notice, demand, or request shall be deemed to have been received upon the earlier of (w) the actual receipt (including receipt by fax for which there is a confirmation), (x) refusal by the addressee, (y) three (3) business days after deposit in the custody of the United States Postal Service or (z) the next business day after deposit with the courier if sent pursuant to (iii) but only if next day delivery is selected. A party shall give the other party notice of any change in address, which notice shall not be effective until five (5) days after it is given. If an address is no longer valid so that a notice is not delivered when sent by a

method described above, but the party has not given notice of the new address, then that notice sent to that address is deemed delivered by that method three (3) days after it is given.

Section 11.6 Successors. This Lease shall be binding upon and inure to the benefit of each of the parties hereto and its respective successors and assigns.

Section 11.7 Severability. If any term, condition or provision of this Lease is unenforceable, the remainder of this Lease shall be enforceable to the extent permitted by law.

Section 11.8 Execution in Counterparts. This Lease may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

Section 11.9 Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of North Carolina. The exclusive forum and venue for all actions arising out of this Lease shall be the North Carolina General Court of Justice in Durham County. Such actions shall not be commenced in nor removed to federal court. This Section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this Section.

Section 11.10 Non-Waiver. No delay or omission by Landlord to exercise any right or remedy accruing under this Lease shall impair such right or remedy or be construed to be a waiver thereof, nor shall any such delay or omission constitute approval of or acquiescence in a breach under this Lease by Tenant.

Section 11.11 Entire Agreement; Memo of Lease.

(a) This Lease constitutes the entire agreement between the parties, and all prior or contemporaneous oral or written agreements or instruments are merged in this Lease.

(b) At the request of either Landlord or Tenant, the other party shall execute and deliver to the other party a Memorandum of Lease, in recordable form and in form and substance reasonably satisfactory to all parties and meeting the statutory requirements for a Memorandum of Lease under North Carolina law.

Section 11.12 Performance of Government Functions. Nothing contained in this Lease shall be deemed or construed to estop, limit, or impair Landlord from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

Section 11.13 Landlord Policy. THE CITY OF DURHAM OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONTRACTORS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONTRACTORS AND VENDORS UNDER CONTRACTS.

Section 11.14 No Partnership. Nothing contained in this Lease shall be construed to create or form a partnership or joint-venture between the parties or render either party liable for the debts or obligations of the other.

Section 11.15 No Third Party Rights Created. This Lease is intended for the benefit of Landlord and Tenant and not any other person.

Section 11.16 Modifications. A modification of this Lease is not valid unless signed by both parties and otherwise in accordance with requirements of law.

Section 11.17 Leasehold Mortgage Provisions. Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the absolute right (without Landlord's consent), at any time and from time to time, to mortgage the leasehold interest herein demised on such terms, conditions and maturity as Tenant shall determine, and to enter into any and all extensions, modifications, amendments, replacements, and refinancings of any such leasehold mortgage or mortgages as Tenant may desire. If Tenant, or Tenant's successors or assigns shall mortgage said leasehold interest, then as long as any such leasehold mortgage or mortgages shall remain unsatisfied of record, the following provisions shall apply, notwithstanding anything to the contrary contained in this Lease, and any pertinent provisions of this Lease shall be deemed to be amended and modified to the extent necessary so as to provide as follows:

(a) Landlord's rights to cancel, surrender, accept a surrender, or modify this Lease shall be subject to the rights of the leasehold mortgagee under this Section 11.17.

(b) Landlord, upon serving upon Tenant any notice of default pursuant to the provisions of Section 11.17 hereof, or any other notice under the provisions of or with respect to this Lease, shall also serve a copy of such notice on the holder of such mortgage, at the address furnished to Landlord by such holder, and no notice by Landlord to Tenant hereunder shall be deemed to have been duly given unless and until a copy thereof has been so served; provided, however, that Landlord's obligation to give or provide the holder of any such mortgage with any notice shall be contingent upon such holder providing written notice to Landlord of its existence and setting forth the address to which all such notices are to be delivered. To be effective, the notice by the holder to Landlord must cite this Lease by its full name and its Effective Date (shown on page 1) and must cite this Section 11.17.

(c) Any holder of such mortgage, in case Tenant shall be in default hereunder, shall, within the period and otherwise as herein provided, have the right to remedy such default, or cause the same to be remedied, and Landlord shall accept such performance by or at the instance of such holder as if the same had been made by Tenant.

(d) Such holder of a leasehold mortgage, in the event Tenant shall be in default hereunder, shall have the right, within the period and otherwise as herein provided, to remedy or cause to be remedied such default, and Landlord shall accept such performance by or at the instigation of such leasehold mortgage holder as if the same had been performed by Tenant. No default by Tenant in performing work required to be performed, acts to be done, or conditions to be remedied, shall be deemed to exist, if steps, in good faith, have been properly commenced by Tenant or by said leasehold mortgage holder, or by any other party, person, or entity to rectify the same and prosecuted to completion with reasonable diligence and continuity.

(e) Anything herein contained to the contrary notwithstanding, during such time as the leasehold mortgage remains unsatisfied of record and unpaid, if an event or events shall occur which shall entitle Landlord to terminate this Lease, and if before the expiration of sixty (60) days after the date of service of notice of termination under this Lease, such holder of the leasehold mortgage shall have paid to Landlord all rent and other payments which are then in default, and shall have complied or shall be engaged with good faith in the work of complying with reasonable due diligence with all the other requirements of this Lease, if any, then in default, and shall continue to pay rent due hereunder, then Landlord shall not be entitled to terminate this Lease and any notice of termination theretofore given shall be void and of no effect, provided, however, that nothing herein contained shall in any way affect, diminish, or impair Landlord's right to terminate this Lease (if such default is not cured within said sixty (60) day period or in the process of being cured with reasonable due diligence) or to enforce any other remedy in the event of the nonpayment of any such rent thereafter payable by Tenant or in case of any

other such default in the performance of any of the obligations of Tenant hereunder in accordance with this Lease.

(f) In the event of the termination of this Lease, prior to the expiration of the Term, whether by summary proceedings to dispossess, service of notice to terminate, or otherwise, due to default of Tenant under this Lease, Landlord shall serve upon the holder of such mortgage written notice that the Lease has been terminated together with a statement of any and all sums which would at that time be due under this Lease but for such termination, and of all other defaults, if any, under this Lease then known to Landlord. Such holder shall thereupon have the option to obtain a new or direct lease with Landlord upon all of the terms and conditions set forth herein provided that such holder has performed all of the unperformed obligations of Tenant under this Lease. To exercise that option, the holder must, within 30 days after the service by Landlord of the notice and statement required to be given under this subsection (f), give notice to Landlord of its intention to exercise the option and perform all of the unperformed obligations of Tenant under this Lease.

(g) Any notice which Landlord shall desire or is required to give to or serve upon the holder of a mortgage on this Lease shall be in writing and shall be served by certified mail, addressed to such holder at its address as set forth in such mortgage, or in the last assignment thereof delivered to Landlord, or at such other address as shall be designated by such holder by notice in writing given to Landlord by certified mail. Any notice which the holder of a mortgage on this Lease shall desire or is required to give to or serve upon Landlord shall be deemed to have been duly given or served if sent by certified mail addressed to Landlord at Landlord's addresses as set forth in this Lease or at such other addresses as shall be designated by Landlord by notice in writing given to such holder by certified mail.

(h) Upon the execution and delivery of a leasehold mortgage and upon receipt of written request from the holder of a leasehold mortgage, Landlord and Tenant agree to execute and deliver to the holder of said leasehold mortgage an estoppel certificate pursuant to Section 7.5(a) and Section 7.5(b) confirming said leasehold mortgagee's rights under this Lease, which estoppel certificate shall be in a form reasonably acceptable to the leasehold mortgagee.

(i) Effective upon the commencement of the term of any new or direct lease executed pursuant to paragraph (f) of this Section, all subleases and licenses, if any, of Tenant shall be and remain subordinate and inferior to the rights of Tenant hereunder and any current or future ground lease, and all moneys received or on deposit with Landlord which Tenant would have been entitled to use but for the termination or expiration of this Lease may be used by the tenant under such new lease for the purposes of and in accordance with the provisions of such new or direct lease.

(j) Landlord and Tenant shall not enter into any agreement modifying, canceling or surrendering this Lease without the prior written consent of the leasehold mortgagees, which shall not be unreasonably withheld.

(k) No holder of a mortgage on this Lease shall have the rights or benefits mentioned in Section 11.17 hereof, nor shall the provisions of said Article be binding upon Landlord, unless and until an executed counterpart of such leasehold mortgage and of each assignment thereof or a copy certified by the holder of the mortgage or by the recording officer to be true, shall have been delivered to the persons designated to receive notice pursuant to Section 11.5.

(l) In connection with any financing by Tenant, Tenant or its lender shall have the right to assign to any lender, without consent of Landlord, all or any portion of Tenant's rights and interests under this Lease, including the right to receive payments otherwise due and payable to Tenant from Landlord under this Lease; provided, that any such lender, or any successor to any such lender as owner of Tenant's interest in this Lease, shall have the right and authority to assign this Lease (in the context of an exercise

of its remedies under any instrument to which a security interest is granted in this Lease (which includes a collateral assignment or leasehold mortgage)) to any other third party which is not affiliated with or owned in any way by Tenant or any affiliate of Tenant, provided that such third party expressly assumes the obligations of Tenant under this Lease in a written instrument satisfactory in form and substance to Landlord. No such assignment shall relieve Tenant of its duties or obligations, including indemnity obligations, under this Lease.

IN WITNESS WHEREOF, the parties have caused this Lease to be duly executed under seal as of the day and year first above written.

CITY OF DURHAM

ATTEST:

Clerk

By: _____
City Manager

[CITY SEAL]

ACKNOWLEDGMENT BY CITY OF DURHAM

NORTH CAROLINA

COUNTY OF DURHAM

I, _____, a Notary Public, do hereby certify that _____ personally appeared before me this day in the aforesaid County and State, and acknowledged that he or she is the _____ City Clerk of the City of Durham, a municipal corporation, and that by authority duly given and as the act of the City, the foregoing Lease was signed in its corporate name by its _____ City Manager, sealed with its corporate seal, and voluntarily attested by its said City Clerk or Deputy City Clerk for the purpose stated therein.

Witness my hand and notarial seal or stamp, this _____ day of _____, 2009.

Notary Public

My commission expires:

[NOTARIAL SEAL]

Parking Lease Agreement for Parking in _____ between the City of Durham and Greenfire Development, LLC

Tenant:

GREENFIRE DEVELOPMENT, LLC

By:

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT BY
AS MANAGER OF GREENFIRE DEVELOPMENT, LLC

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I certify that _____ personally appeared before me this day, and I have personal knowledge of the identity of the subscribing witness, and acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____ (name), _____ (title) of _____, a North Carolina Corporation and Authorized Manager of Greenfire Development, LLC, a North Carolina limited liability company.

Date: _____

Notary Public

Print Name: _____

{Official Seal}

My Commission Expires: _____