

Article and Section	Page
ARTICLE IV. LEASE OF THE SOUTH MALL.....	19
§4.01. Lease	19
§4.02. Lease term	19
§4.03. Changes in Property covered.....	19
§4.04. Covenant not to encumber Property.....	19
§4.05. Rentals	19
§4.06. Computation of Rentals	20
§4.07. Payment and disposition of Rentals.....	20
§4.08. Use of Debt Service Fund	21
§4.09. State's right to possession.....	21
§4.10. Operation, maintenance, and repair.....	21
§4.11. Administrative Expenses	21
§4.12. Alterations and additions.....	22
§4.13. Subletting	22
§4.14. Liability for loss, damage, or injury.....	23
§4.15. Inability of County to sell Bonds.....	24
§4.16. Reconveyance to State upon expiration of lease.....	24
§4.17. Disposition of surplus moneys.....	24
ARTICLE V. FINANCING OF THE PROJECT.....	24
§5.01. County to finance Project Costs.....	24
§5.02. State payment of Project Costs.....	25
§5.03. Reimbursement of the State.....	25
§5.04. General terms of Bonds and Notes.....	25
§5.05. General Resolution	26
§5.06. Provision for initial financing.....	26
§5.07. Provision for subsequent financing.....	26
§5.08. Cooperation by the Commissioner.....	27
§5.09. Consultation with the Commissioner.....	27
§5.10. Disposition of proceeds of Bonds and Notes.....	27
§5.11. Use of Construction Account.....	27
§5.12. Procedures for payment of Project Costs and for reimburse- ment of the State.....	28
§5.13. Use of Redemption Fund.....	29

THIS AGREEMENT, made this 11th day of May, 1965, by and between the People of the State of New York, acting by and through the State Commissioner of General Services, whose office is located at 143 Washington Avenue in the City of Albany, New York, and the State Superintendent of Public Works, whose office is located at the State Office Building Campus in the City of Albany, New York, both acting pursuant to Chapter 152 of the Laws of 1964 and Section 850 of the County Law; the County of Albany, a municipal corporation of the State of New York, whose principal office is in the County Court House in the City of Albany, New York; and The City of Albany, a municipal corporation of the State of New York, located in the County of Albany and whose principal office is in the City Hall in the City of Albany, New York.

WITNESSETH

WHEREAS the State has urgent need for office buildings and related facilities in the City of Albany, that being a city having seventy-five thousand and more inhabitants; and

WHEREAS the Temporary State Commission on the Capital City has recommended that the future development of such State office buildings and related facilities take place in the core of the City; and

WHEREAS the Legislature has found and declared that the location of State office buildings and related public improvements within the county in which they are constructed has a clear effect upon the physical and economic development of the county; that experience has shown that the process of construction may itself provide a valuable stimulus to the local economy, that ancillary private business and professional activities, with significant potential for creating job opportunities for county residents, are quickly attracted to the area surrounding State office building projects, that nearby residential development is accelerated, and that local real property values and revenues to the county government are correspondingly increased; that in addition to serving the convenience of county residents in having State services nearby, State office building projects are thus an important stabilizing and growth factor in the economic vitality of the county in which they are located; that if a State office building project is constructed in a county in accordance with an integrated long-range plan for the physical and economic development of the county, it can serve to revitalize the entire area by clearing deteriorated commercial structures and substandard and unsanitary

housing conditions, by eliminating fire, health and public safety hazards, by incorporating arterial highways and controlled access roads for improved traffic movement, by providing adequate parking facilities which can be used by persons living, working and shopping in the area as well as by State employees, and by including in the project parks, recreation areas and other facilities for the use of state or county employees, and the public at large; that the State anticipates the need for office space in certain cities having a population of seventy-five thousand or more inhabitants; that the general well-being of each county containing such a city, and the safety, health, comfort, convenience and economic prosperity of persons living in the county and working in the city, who are importantly affected by the site selected for new State office buildings and related public improvements, warrant mutual cooperation by the county and the State in determining the location of the project and in accomplishing its construction; and that with such cooperation a balanced, integrated plan for the future development of the county and the city may result at the same time that the requirements of State departments and agencies for office space and related facilities are met.

WHEREAS the County of Albany is authorized by County Law section 850 to issue its obligations to finance the cost of purchasing and leasing to the State lands in the City of Albany and the construction thereon of office buildings suitable for the primary use of State departments, agencies and employees, and other public improvements, and

WHEREAS the Commissioner and the Superintendent will expeditiously proceed with the performance of their respective duties and obligations pursuant to this Agreement.

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

ARTICLE I.

DEFINITIONS AND GENERAL PROVISIONS.

§1.01. *Definitions.* The terms set forth in this section shall have the meanings ascribed to them for all purposes of this Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

"Acts." Chapter 152 of the Laws of 1964 and Section 850 of the County Law, as amended by a Chapter of the Laws of 1965.

"Administrative Expenses." Expenses incurred by the State or the County in carrying out their duties under this Agreement, including accounting, administrative, financial consultation, and legal expenses and the fees and expenses of paying agents, registration agents, or depositories.

"Agreement." This Agreement and all amendments or supplements thereto.

"Appurtenances." Fixtures, equipment, machinery, and apparatus which are an integral part of an office building or other public improvement and service units and other connections and installations for power, water, sewer, gas, electrical, telephone, heating, air conditioning, and other utility services.

"Architectural Plans." Architectural and engineering plans, specifications, estimates, and other necessary documents in connection with the design of Public Improvements.

"Arterial Highway." That portion of the "Mall Arterial" within the South Mall, described in Section 349-e of the Highway Law as amended by Chapter 207 of the Laws of 1964, including connections with other Public Improvements.

"Bonds." Serial Bonds, to be designated South Mall Construction Bonds, which are issued and sold by the County to (a) finance Project Costs and reimbursement of the State for Project Costs initially paid by the State, (b) fund Notes (including the interest thereon) sold to pay such costs or to reimburse the State therefor, or (c) refund Bonds previously issued for such purposes.

"Bond Resolution." A Resolution or Resolutions duly adopted by the County to authorize the issuance of Bonds in accordance with the terms of the General Resolution.

"City." The City of Albany and, depending on the context, its geographic areas.

"Closing Date." The date when execution and delivery of this Agreement by or on behalf of the State, the County and the City shall become complete.

"Commissioner." The State Commissioner of General Services, his successor in office or function, and the duly authorized representatives of such Commissioner or successor.

"Comptroller." The Comptroller of the State of New York.

"Construct" or "Construction." To construct, reconstruct, or otherwise provide any Public Improvement, including demolition, grading, improvement of the site therefor, and original furnishings, equipment, machinery and apparatus required for the purposes for which such Public Improvement is to be used.

"Construction Account." The Special Account of that name into which the County is to deposit proceeds of Bonds and Notes pursuant to §5.10(c) and certain other moneys pursuant to §4.14(b) and (c).

"County." The County of Albany and, depending on the context, its geographic area.

"Debt Service Fund." The Special Fund of that name into which the County is to deposit Rentals received from the State, pursuant to §4.07, and certain other moneys pursuant to §§5.11(b) and 5.13(c), (d), (e), and (f).

"Debt Service Requirement." An amount of money, computed as of any Rental Date, sufficient to pay when due, with respect to then outstanding Bonds, any installments of principal of and interest thereon which are payable during the period commencing on said Rental Date and ending on the day preceding the next Rental Date, both inclusive.

"Equipping" or "Equipment." The provision of original fixtures, furnishings, machinery, partitions and apparatus in connection with a Public Improvement or Improvements, which are not included in the Architectural Plans for such Improvement.

"General Resolution." A Resolution duly adopted by the County in accordance with §5.05.

"Notes." Bond Anticipation Notes issued and sold by the County in anticipation of the sale of Bonds which have been authorized but not yet issued.

"Note Resolution." A Resolution or Resolutions duly adopted by the County and authorizing issuance of Notes; also a certificate or certificates by

the County's chief fiscal officer whenever power to authorize Notes has been duly delegated to him.

"Outstanding." With reference to Bonds or Notes, as of any date, Bonds or Notes theretofore issued and delivered except (a) Bonds or Notes cancelled at or prior to such date, (b) Bonds or Notes which have theretofore matured or been called for Redemption and for which the County has made full provision for payment of the principal thereof and interest thereon to maturity or the Redemption date, as the case may be, and (c) Bonds or Notes in lieu of which other Bonds or Notes have been delivered.

"Project." Development of the South Mall in accordance with this Agreement.

"Project Costs" or "Costs of the Project." All costs incurred by the State or the County and approved by the Commissioner or the Superintendent as necessary and proper in connection with acquiring Property for the Project, constructing Public Improvements thereon, and equipping such Improvements. Such costs shall include the costs of acquisition of Property; demolition of existing structures; relocation of occupants; test borings and other soil explorations; site improvement; Architectural Plans; Construction; relocation or replacement of those City utility lines and facilities which require relocation or replacement; costs or claims, if any, paid by the State, the County or the City in connection with the relocation or removal of privately owned utility lines and facilities; Equipping any Public Improvement and the making of alterations and improvements to Equipment therefor; expenses in connection with the issuance and sale of Bonds and Notes; interest on Bonds and Notes from the date thereof to the date when such interest shall be payable from moneys derived from Rentals paid by the State; legal services; financial advice and assistance; special audits; services of banks or trust companies; other Administrative Expenses; allowances for contingencies; all other expenses which the Commissioner may approve as incidental but necessary to completion of the Project; and reimbursement of the State for such of the costs specified in this section as may have been or may be paid by the State, including such costs as may have been incurred by the State prior to any re-entry by the State pursuant to §2.03, but paid thereafter.

"Property." Lands, waters, rights in lands or waters, structures, franchises, and interests in land, including lands under water and riparian rights,

and any and all other things and rights usually included within the definition of real property and also any and all interests in such property less than full title, such as easements temporary or permanent, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable.

"Public Improvement" or "Improvement." An office building suitable for the primary use of State departments, agencies and employees; a courthouse, an archives and records center, a museum, a laboratory, a park, a garden, a recreation area, the installation of trees, shrubs and other landscaping, a monument, a parking garage, a parking lot, a pedestrian walkway or overpass or underpass, an arterial highway or connection, a crossroad or access road, a transportation terminal or shelter, a meeting hall, a civil defense shelter against radioactive fallout and blast, and other public structures and facilities intended for the use of State or County employees and the public at large, or any combination of the foregoing; and Appurtenances thereto.

"Redemption" or "Redeemed." Payment of Bonds or Notes prior to maturity, at the option of the County as provided for in such Bonds or Notes.

"Redemption Fund." The Special Fund of that name into which the County is to make deposits under §§2.03, 4.14(c) and 5.11(c).

"Rentals." The amounts payable by the State to the County under §§4.05 to 4.07.

"Rental Dates." The dates on which the State is to pay the Rentals to the County as provided in §4.07.

"Resolution." A resolution or local law duly adopted by the Board of Supervisors of the County.

"South Mall" or "Mall." The Property in the City which is shown approximately on the Sketch Map annexed hereto as Exhibit A and which is more exactly described in Exhibit B annexed hereto, together with any additional Property acquired by the State pursuant to §2.05.

"Special Accounts and Special Funds." The Construction Account, the Debt Service Fund, the Redemption Fund, and any other similar account or fund which may be established by the General Resolution or any other

Resolution pursuant to sections 123.00 and 165.00 of the Local Finance Law or under the Acts.

"*State.*" The People of the State of New York.

"*Superintendent.*" The State Superintendent of Public Works, his successor in office or function, and the duly authorized representatives of such Superintendent or successor.

"*Supplemental Payments.*" The payments by the State which are provided for in §2.06.

§1.02. *Purpose of this Agreement.* The Acts authorize the Commissioner, with the approval of the Director of the Budget and on behalf of the State, the Superintendent, the County and the City to take the following actions, among others:

(a) The Commissioner and the County to enter into contracts which provide, among other things, for the County to (i) construct Public Improvements, in accordance with Architectural Plans approved by the Commissioner, on Property owned by the County; (ii) lease such Improvements and the Property upon which they are constructed to the State for a term not exceeding forty (40) years, upon such terms and conditions as may be agreed upon; and (iii) convey the Property and Improvements thereon to the State without additional charge at the expiration of the lease.

(b) The Superintendent to acquire Property required in connection with any such contract, and to act as agent for the County in connection with the Construction of Public Improvements in the South Mall.

(c) The Commissioner and/or the Superintendent to execute and deliver to the County, for a proper and reasonable consideration, a deed to any Property so acquired or previously duly acquired for State purposes.

(d) The County to designate the Superintendent as its agent in connection with the Construction of Public Improvements pursuant to a contract, such as this Agreement, authorized by the Acts.

(e) The County to issue its obligations to finance the cost of acquiring Property and constructing Public Improvements thereon.

(f) The City to join with the County and the Commissioner in a contract entered into pursuant to the Acts and to undertake obligations in connection therewith and to participate in the benefits accruing therefrom.

The State, the County, and the City agree that their mutual public purposes and best interests will be promoted by the making of this Agreement. The purpose of this Agreement is to promote such public purposes and best interests of the parties hereto by providing for exercise of the powers conferred by the Acts.

§1.03. *Duration of Agreement.* This Agreement shall remain in full force and effect until expiration of the lease embodied in Article IV as provided in §4.02 and the reconveyance to the State of the Property covered thereby as provided in §4.16, or until full performance by the parties or discharge of all their obligations hereunder, whichever shall be later. The State and the County hereby express their intent that the terms of the lease are such that sufficient Rentals will have been paid by the State to the County in sufficient time to make full payment as due of principal of and interest on all Bonds and Notes.

§1.04. *Termination of prior agreement with City.* The City and the State agree that a certain contract entered into by and between the City and the State under date of July 17, 1963, and approved by the Comptroller and filed in his office on July 26, 1963, as Accounts Receivable Contract No. AR-41, is hereby cancelled and terminated; the State hereby releases the City from any liability to the State under the said contract; and the County agrees that any expenditures made by the State in the first instance pursuant to the said contract and certified by the Comptroller pursuant to §5.12(b) of this Agreement, shall constitute Project Costs reimbursable to the State pursuant to §5.03(b).

§1.05. *Depositories for Special Accounts and Funds and security therefor.*

(a) All Special Accounts and Special Funds provided for in this Agreement shall be deposited in one or more banks or trust companies, satisfactory to the Commissioner, located in and authorized to do business in this State and designated as depositories for the particular Special Account or Fund by the Board of Supervisors of the County.

(b) The safe keeping and prompt payment of all such deposits shall be secured as provided in Section 212 of the County Law.

§1.06. *Investment of Special Accounts and Special Funds.*

(a) All moneys in Special Accounts and Special Funds provided for in this Agreement shall, as nearly as practicable, be invested and reinvested pending disbursement. Such investment and reinvestment may be in direct obligations of the United States of America or the State; in certificates of deposit of a bank or trust company located and authorized to do business in this State which are fully and continuously secured by a pledge and deposit of obligations of the United States of America or the State; or in time deposits in such a bank or trust company which are similarly secured.

(b) All investments shall be selected to mature or to be payable at the option of the holder at such times as may be necessary to provide funds when needed but, except in the case of the Redemption Fund, not later than two years after the date of investment.

(c) Interest earned by or increment to any Special Account or Fund shall be retained in such Account or Fund except as otherwise provided in this Agreement.

(d) Investments by the County shall be made with the concurrence of the Commissioner.

(e) Whenever it is necessary to compute the amount of money in any Special Account or Special Fund, investments shall be valued at cost or the market price at the close of business on the last business day preceding the computation, whichever is lower. When transfers between Special Accounts and/or Special Funds are made, pursuant to this Agreement, they may be in cash or investments or a combination thereof.

§1.07. *Executory clause.* The State's agreement hereunder shall be deemed executory only to the extent of the moneys available to the State and no liability on account thereof shall be incurred by the State beyond the moneys available for the purposes thereof. The County's agreement hereunder shall be deemed executory only to the extent that the County is empowered by law to issue and sell its obligations to finance Costs of the Project.

§1.08. *Notices.* All notices or other communications provided for in this Agreement shall be in writing and shall be delivered personally to, or sent by certified or registered mail to the respective offices of the Commissioner, the Superintendent, the Chairman of the Board of Supervisors of the County, and the Mayor of the City, or to such representatives as they or any of them may from time to time designate in writing.

§1.09. *Headings.* The Article and section headings in this Agreement are inserted for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

§1.10. *Non-waiver.* It is understood and agreed that nothing contained in this Agreement shall be construed as a waiver on the part of the parties, or any of them, of any rights not explicitly waived in this Agreement.

ARTICLE II

ACQUISITION OF PROPERTY

§2.01 *Appropriation of City streets in Mall.*

(a) It is contemplated by the parties that on or before the Closing Date, the State shall have appropriated the fee title to all streets or portions thereof (including all City facilities and utilities therein) within the perimeters of the Property described in appropriation descriptions and maps filed or to be filed by the Superintendent in the Albany County Clerk's Office on or after March 27, 1962, and entitled "State Building Site at Albany, New York", Map Segments A, B, E and G, together with easements in certain streets as defined in Map Segments F, H and J, similarly filed and entitled. If any of such streets or easements have not been appropriated on or before the Closing Date, the State shall appropriate them thereafter at such time or times as the Superintendent in his sole discretion deems appropriate, but in any event within five years after the Closing Date.

(b) Payments, if any, made by the State on account of claims by the City arising out of appropriation of any interest(s) in City streets, whether by agreement or otherwise, together with any expenses incurred by the State in connection with the determination of the amount of such payments, shall constitute Project Costs reimbursable pursuant to §5.03.

(c) Notwithstanding the appropriation by the State of the fee title in certain streets, as set forth in subsection (a) of this Section, whether before or after the Closing Date, the State and the County consent to the continued temporary use thereof by the City for street and other municipal purposes and to that end make, and the City hereby accepts, a temporary dedication of all streets so appropriated until such time as they are closed to traffic pursuant to §3.07. In the meantime the City shall continue to maintain, light, police, and otherwise operate all such streets in the same manner as prior to the appropriation thereof, and shall have the same legal rights and responsibilities as the City has with respect to City streets generally.

§2.02. *Relocation and/or replacement of certain City facilities.* The State agrees that as part of the Project, and without cost to the City it will relocate and/or replace such sewer, water, street lighting and traffic control facilities of the City within the South Mall as may be required to provide adequate service and protection without adversely affecting such facilities located outside the South Mall; the State and the County agree that the costs of such work shall constitute Project Costs hereunder. The State shall keep the City fully informed of its plans for such relocation and/or replacement.

§2.03. *State conveyance(s) to the County.* On the Closing Date, the Commissioner and/or the Superintendent, with the approval of the State Director of the Budget and on behalf of and in the name of the State, shall execute and deliver to the County appropriate instruments, approved by the State Attorney General and the Albany County Attorney as to form and sufficiency and manner of execution, conveying to the County the rights, title and interests of the State, set forth in Exhibit B annexed hereto, in and to the Property described in the said Exhibit B, reserving to the State easements in and to certain portions thereof, all as described in said Exhibit B, such Property constituting the entire South Mall as defined in §1.01. Each instrument of conveyance, as to each and every parcel separately described and conveyed therein and thereby, shall be subject to the condition, however, that if the County shall fail, within five (5) years from the date of the conveyance, to construct upon the Property conveyed any Public Improvement as required by this Agreement, or if any such Public Improvement so constructed upon the Property ceases to be used primarily for State purposes, then and in either event, title to such Property, and any Public Improve-

ment thereon, shall revert to the State with right of re-entry thereupon; provided, however, that if such right of re-entry shall arise as the result of the failure of the County to construct a Public Improvement required by this Agreement, the State will exercise such right of re-entry only if such failure resulted from the fault or neglect of the County; and provided further that in lieu of re-entry by action by the State, the County may tender and the State may accept a conveyance of such Property to the State, its successors and assigns, in such form as to reconvey to the State all the rights, title and interest which the County received from the State pursuant to the instrument or instruments of conveyance hereinabove referred to, together with any Public Improvement constructed thereon, subject only to such encumbrances as may have arisen pursuant to this Agreement; and provided, further, that as a condition precedent to the exercise of such right of re-entry, or the execution and delivery by the County of such a conveyance in lieu of re-entry by action by the State, the State shall pay the County, for deposit in the Redemption Fund, the amount, if any, by which all Project Costs incurred by the County in connection with such Property and the Public Improvement, if any, thereon, exceeds the total amount of all payments of principal theretofore made on Bonds issued pursuant to this Agreement. It is expressly understood and agreed that nothing contained in this Section shall be construed to limit the provisions of §4.05.

§2.04. *Consideration for conveyance(s) to the County.* As consideration for the Property conveyed under §2.03, the County agrees to pay the State as follows:

(a) On or before August 1, 1965, a sum which represents the total of the following items:

(i) All payments made by the State on or before October 31, 1964, for Property in the City of Albany, other than City streets, acquired by the State on or after March 27, 1962, and described in appropriation descriptions and maps filed by the Superintendent in the Albany County Clerk's Office and entitled "State Building Site at Albany, New York", Map Segments A, B, C, D and K, in the aggregate amount of TWENTY-SEVEN MILLION, ONE HUNDRED THIRTY THOUSAND, ONE HUNDRED EIGHTY-SIX AND TWENTY-EIGHT ONE-HUNDREDTHS DOLLARS (\$27,130,186.28).

(ii) All payments made by the State on or before October 31, 1964, in connection with the relocation of the former occupants of such

property, the demolition of structures thereon, and site clearance, in the aggregate amount of ONE MILLION, SEVEN HUNDRED FIFTY-FOUR THOUSAND, NINETY-NINE AND FIFTY-TWO ONE-HUNDREDTHS DOLLARS (\$1,754,099.52).

(b) Thereafter, as provided in §5.03(b) and (c), such additional amounts as the State may pay after October 31, 1964, in connection with acquisition of Property for the Project, relocation of occupants thereof, demolition of structures thereon, and site clearance.

§2.05. *Additional Property.* Whenever the State, the County and the City agree that additional Property is needed for construction of Public Improvements related to the Project, the State shall acquire such Property, unless the State shall previously have acquired title thereto, and shall convey such Property to the County as provided in Chapter 152 of the Laws of 1964, but subject to terms and conditions similar to those prescribed in §2.03 of this Agreement. Upon acquisition by the County, such Property shall be deemed part of the South Mall and become subject to all terms of this Agreement.

§2.06. *Supplemental Payments.* In addition to any other payments required to be made by the State hereunder, the State shall make Supplemental Payments as follows:

(a) A Supplemental Payment to the City during each of the three fiscal years of the City beginning November 1, 1964, November 1, 1965 and November 1, 1966 in an amount equal to the real property tax levy which was made upon the City assessment roll finally completed in 1961 on all Property in the South Mall except Property determined by the Superintendent to be necessary for the purposes of the Arterial Highway, less (i) the amount of State aid allocable to such Property and paid or payable to the City for such fiscal year under Section 545 of the Real Property Tax Law and (ii) the amounts received or receivable by the City as taxes pursuant to Section 8-a of the Public Works Law in the calendar year beginning in the fiscal year of the City for which such a Supplemental Payment is computed.

(b) Supplemental Payments to the County during the term of the lease set forth in Article IV hereof, as follows:

(i) During the first ten (10) years of such term, the total sum of THREE MILLION TWO HUNDRED THOUSAND DOLLARS (\$3,200,000) pay-

able in semiannual installments of ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000) on each Rental Date.

(ii) During the balance of such term, (A) the total additional sum of NINE MILLION SIX HUNDRED THOUSAND DOLLARS (\$9,600,000), payable in pro rated semiannual installments on each Rental Date, and (B) in the event that the total principal amount of Bonds issued and sold pursuant to this Agreement other than Bonds issued or sold to refund Bonds previously issued or sold, shall exceed FOUR HUNDRED MILLION DOLLARS (\$400,000,000), an additional sum equal to THREE AND THREE FOURTHS PERCENT (3.75%) of the principal amount of such Bonds in excess of \$400,000,000, payable in pro rated semiannual installments on each Rental Date.

(iii) If, upon termination of such term, except a termination with respect to the whole of the leased property pursuant to §4.15 of this Agreement before the County shall have issued any bonds pursuant to this Agreement, payments made to the County pursuant to this subsection (b) shall be less than \$12,800,000, the State shall, within one year after such termination, pay to the County a sum equal to the difference between \$12,800,000 and the total of the semiannual installments theretofore made.

(c) Neither the City nor the County shall be restricted by this Agreement in the use of the Supplemental Payments provided for in this section except that (i) the City agrees to divide each Supplemental Payment received pursuant to subsection (a) of this section between itself and the County in the same proportions as provided in the basis for the tax levy made by the County upon the City assessment of 1961, and (ii) the County agrees to divide each Supplemental Payment received pursuant to subsection (b) of this section between itself and the City in the same proportions as provided in the basis for the tax levy made by the County upon the City assessment of the calendar year preceding the calendar year in which each such Supplemental Payment became due.

(d) Such Supplemental Payments shall not constitute Project Costs hereunder.

§2.07. *New and reconstructed streets.*

(a) Upon the completion and acceptance from contractors of those portions of Madison Avenue, South Swan Street, Eagle Street, Grand Street,

and South Pearl Street which are situated within the South Mall, as such streets may exist or be relocated or reconstructed, the County, with the Commissioner's approval, shall grant easements therein to the City for street and other municipal purposes. The State shall keep the City fully informed of its plans for such relocation or reconstruction.

(b) Upon expiration of the lease contained in Article IV of this Agreement, pursuant to §4.02, and upon reconveyance to the State of the premises subject to such lease, pursuant to §4.16, the State shall and will cause such portions of such streets to become unappropriated State lands in the manner provided by Section 30 of the Public Lands Law and to be conveyed to the City for street purposes in accordance with and subject to the provisions specifically set forth in Section 34 of the Public Lands Law, as said sections now exist. The execution and delivery of this Agreement by the City shall be deemed to constitute the certification and formal request required by said Section 34.

(c) The City shall accept such grants and conveyances and shall, both during the term of this Agreement and thereafter, maintain such streets and in all respects be legally responsible with respect thereto in the same manner as the City is legally responsible with respect to City streets generally.

(d) The State shall maintain and be legally responsible with respect to the Arterial Highway and all new or reconstructed roadways and walkways within the South Mall other than those referred to in subsection (a) of this Section.

ARTICLE III

CONSTRUCTION OF PUBLIC IMPROVEMENTS

§3.01. County to construct Public Improvements. Upon the Commissioner's requests and in accordance with Architectural Plans to be provided by him, the County shall construct Public Improvements in the South Mall. The County makes no warranties or representations and accepts no liability or responsibility with respect to or for the adequacy, sufficiency or suitability of or defects in the State's drawings, plans, specifications, maps, information for bidders, construction proposals and agreements, contract documents, general and special specifications and conditions of contract and the work of the contract.

§3.02. *Requests for Construction.* The Commissioner's requests for Construction shall bear the approval of the State Director of the Budget and shall, so far as practicable, each include a general description of the Improvement(s) to which it pertains, the location thereof, the architect's name, the estimated cost of Construction, the approximate date upon which Architectural Plans will be available, an estimate of the time needed for Construction, and other information the Commissioner deems pertinent.

§3.03. *Preparation of Architectural Plans.* The State shall be responsible for the preparation of all Architectural Plans, which shall be considered to be incorporated in this Agreement upon their approval by the Commissioner, and upon delivery to the Superintendent as the agent of and on behalf of the County of such plans and of a request for Construction of the Public Improvement to which they relate.

§3.04. *Superintendent as agent of the County.*

(a) The County hereby designates the Superintendent, in his capacity as a State Officer, as its agent in connection with all phases of Construction hereunder, including the receipt of communications from the Commissioner, the letting of construction contracts, supervision of construction, acceptance of completed Improvements or parts thereof, and all other matters incidental to performance of the duties and powers expressly granted herein. The Superintendent may carry out his functions hereunder without obtaining any further approval of the County.

(b) Construction and other contracts in connection therewith shall be let by the Superintendent to the lowest responsible bidder, after public advertisement, in the manner provided by Section 8 of the Public Building Law and Section 135 of the State Finance Law, and shall be subject to the approval of the Comptroller. All such contracts shall have the same general form and content as construction contracts customarily let by the Superintendent on behalf of the State, and shall specifically require that each contractor, prior to the performance of any work under any such construction contract, shall secure and deliver to the Superintendent a policy or policies of insurance, naming both the State and the County as insureds, issued by an insurance company or companies authorized to do business in the State of New York, providing protection against liability for damages imposed by law, and arising out of claims of third parties for personal injury, death or

property damage sustained or incurred during the performance of such contract, with limits of liability in respect of personal injury or death of not less than \$250,000 for each person and \$500,000 for each accident, and in respect of property damage of not less than \$500,000 for each accident.

(c) It shall be the duty of the Superintendent to keep the County fully informed at all times with respect to his activities on its behalf and all other matters within his knowledge which relate to the Project.

§3.05. *Indemnification of the County.*

(a) Both during the term of the lease set forth in Article IV of this Agreement and thereafter, the State shall indemnify and hold the County harmless against and the State shall pay any and all liability, loss, cost, damage claims, judgments or expense, of any and all kinds or nature and howsoever arising, imposed by law, which the County may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon personal injury, death or damage to property, whether real, personal or mixed, or upon or arising out of contracts entered into by the Superintendent, as agent for the County, or arising out of the County's ownership of the South Mall and the Public Improvements or the leasing thereof to the State, or out of the work of Construction of such Public Improvements by the Superintendent as agent for the County pursuant to this Agreement, or out of the acquisition of Property for purposes of the Project.

(b) The State, at its own cost and expense, shall defend any and all such claims, suits and actions which may be brought or asserted against the County or its officers, agents or employees; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as provided in §3.04 of this Agreement from its obligation to defend the State, the County and any other insured named in such policy of insurance in connection with claims, suits or actions covered by such policy.

(c) The County agrees as follows:

(i) The County shall give the Commissioner prompt notice in writing of the filing of each such claim and the institution of each such suit or action.

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

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

(d) Any payments made by the State pursuant to this section, except such payments as do not constitute costs of Construction of the Project or the acquisition of land therefor, may, at the election of the Commissioner, constitute Project Costs hereunder.

(e) This section shall be of the essence of this Agreement.

§3.05. *Liability for damage to Property not taken.* If the work of Construction of any Public Improvement hereunder is performed by the Superintendent as agent for the County and such work causes damage to property other than that upon which construction is taking place, the State shall be liable therefor, but this provision shall not be deemed to create any liability not already existing by statute. The amount of any such liability shall be adjusted or determined and paid as provided by subdivision (e) of Section 4 of Chapter 152 of the Laws of 1964, and any amount so paid shall be deemed a Project Cost for which the State shall be reimbursed by the County as provided in subsection (c) of §5.03 of this Agreement. This section shall not be construed to limit the provisions of §3.05 of this Agreement.

§3.07. *Cooperation by the State, the County and the City.* The State, the County and the City each agrees to cooperate with one another and with contractors, utility companies, architects and consulting engineers, and other persons engaged in Construction of the Project, all with a view to facilitating and expediting such Construction. Such cooperation shall extend to, but not be limited to, each of the following when requested by the Commissioner or the Superintendent: closing of streets and public ways to traffic, granting of easements for utility lines, issuing of licenses and permits, rerouting of traffic, adjustment of parking regulations, and provision of special police and fire protection.

§3.08. *Relocation of occupants.* For the purposes of the Project, the State shall continue to demolish existing structures in, and relocate occupants of the South Mall. The cost of such work shall be deemed a Project Cost fully reimbursable as provided in §5.03.

ARTICLE IV
LEASE OF THE SOUTH MALL

§4.01. *Lease.* Effective as of the date of the conveyance to the County pursuant to §2.03, the County hereby leases to the State, and the State hereby takes and hires from the County, the South Mall and all Public Improvements constructed therein throughout the duration of this lease, all upon the terms and conditions set forth in this Agreement.

§4.02. *Lease term.* Subject to the provisions of §4.15, the lease term shall run from the date of the conveyance to the County pursuant to §2.03 to and including December 31, 2004, or until earlier payment of the principal of and interest on all outstanding Bonds and Notes.

§4.03. *Changes in property covered.* The State and County agree that the following changes in property subject to this lease shall become effective without amendment of the lease:

(a) Any additional Property acquired by the County pursuant to §2.05, and any Public Improvement(s) constructed thereon, shall become subject to this lease upon the acquisition of such property by the County.

(b) The streets and facilities therein, which are referred to in §2.07(a), shall, as they are completed and accepted from contractors, be and become available for use by the City as public streets, as provided in the said §2.07.

(c) If any of the leased Property reverts to the State by virtue of the condition in §2.03 and in the instrument(s) of conveyance and if the State exercises its right of re-entry thereon, or if any of such Property is reconveyed to the State pursuant to the provisions of §4.15, the State's leasehold therein shall be deemed to be merged into its fee simple or other title.

§4.04. *Covenant not to encumber property.* The County covenants not to encumber, by any act on its part, any Property leased hereunder, or grant any rights therein other than those expressly provided for in §§2.01(c) and 2.07, without the specific approval in each instance of the Commissioner.

§4.05. *Rentals.* Throughout the term of this lease the State shall pay the County annual Rentals, in semiannual installments, on each of the Rental

Dates provided for in §4.07(b) of this Article, in amounts sufficient to assure payment when due of all installments of principal of and of interest on all Bonds issued by the County to finance the Project. The State's obligation to make such payments shall be absolute and unconditional, subject only to the provisions of §1.07, and each Rental shall be payable without any setoff or counterclaim or withholding of State collected, locally shared taxes or State aid, and regardless of contingencies, whether or not the State occupies or uses the Improvements constructed hereunder, and notwithstanding any circumstances or occurrences which may arise or take place, except as hereinafter provided in §4.06(b). The State shall pay such taxes, assessments, rates, rentals and charges as may have been or may be lawfully levied or assessed against the demised premises or imposed because of the use or occupancy thereof.

§4.06. Computation of Rentals.

(a) Rental payments shall be computed as of each Rental Date. Each payment shall consist of the amount which, when added to moneys then in the Debt Service Fund, equals the total of (i) the Debt Service Requirement and (ii) any moneys in the Debt Service Fund which represent payments into that Fund under §5.10(b)(i) for interest payable on or after the next succeeding Rental Date.

(b) However, no further Rentals shall be payable if, (i) the Commissioner shall have certified in writing to the County that all Public Improvements for which requests for Construction have been communicated to the County have been completed, except for Improvements upon land as to which the State has exercised a right of re-entry pursuant to §2.03 or which has been reconveyed to the State pursuant to said §2.03, that all Project Costs thereof except for Administrative Expenses have been paid, and that the State does not then contemplate Construction of any other Public Improvements in the Mall, and (ii) following such certification, there shall be sufficient moneys in the Debt Service Fund and/or in the Redemption Fund to pay in full the principal and interest on all Bonds and Notes then outstanding, to the maturity dates of such Bonds and Notes, or in the event such Bonds or Notes have been called for redemption, then to any redemption date thereof.

§4.07. Payment and disposition of Rentals.

(a) On each Rental Date the State shall pay the County the amount of the payment due, in accordance with §4.06.

(b) The "Rental Dates" shall be each March 26 and September 25 during the term of this lease, commencing March 26, 1967, or such earlier Rental Date as the Commissioner may specify to enable the State to fulfill its obligations pursuant to §4.05 of this Agreement.

(c) Not less than ten (10) days before each Rental Date the County shall notify the State of the amount of the forthcoming Rental payment and set forth the computation forming the basis therefor.

(d) The County shall deposit all Rentals in the Debt Service Fund, in a depository or depositories designated by the Board of Supervisors of the County, in accordance with the provisions of §1.05, except for any amounts which are required to be restored to the Redemption Fund pursuant to §5.13(e).

§4.08. *Use of Debt Service Fund.* Moneys in the Debt Service Fund shall be used only to pay when due installments of principal of and interest on Bonds.

§4.09. *State's right to possession.* Except as otherwise provided in §§2.01(c) and 2.07 with respect to public streets, the State shall be in sole possession of all the South Mall and of the Project and of all Public Improvements constructed thereon, on and after the date of the beginning of the term of the lease set forth in this Article, and shall keep the same in good order and condition.

§4.10. *Operation, maintenance and repair.* From and after the date it shall be in possession, pursuant to §4.09 above, the State shall be responsible for, and pay all costs of, operating all Public Improvements constructed in the South Mall; maintaining the same in good condition; and making all necessary repairs and replacements, interior and exterior, structural and non-structural. The State's responsibility hereunder shall include maintenance of the Arterial Highway, and all other roadways and walkways within the South Mall, with the exception of the public streets which the City is to maintain and shall be legally responsible for as provided in §2.07.

§4.11. *Administrative Expenses.* Administrative Expenses shall be paid by the County only after advance written approval by the Commissioner of the nature and amount thereof. Such expenses shall be payable out of the

Construction Account pursuant to §§5.11 and 5.12. If, however, the County shall have insufficient moneys in such Account to pay such expenses, or if such expenses do not constitute Project Costs, the State shall pay the same or reimburse the County therefor upon certification by the County's chief fiscal officer that moneys in such account are insufficient, and upon approval of vouchers therefor by the Commissioner, and upon order and warrant of the State Comptroller.

§4.12. *Alterations and additions.* The State shall have the right to make any changes, alterations, and additions in and to the Property which is the subject of this lease, both structural and nonstructural, including replacement of equipment and furnishings.

§4.13. *Subletting.* The Commissioner, with approval of the Director of the Budget and on behalf of the State, may rent or sublease space in any Public Improvement, in excess of the requirements of State departments, agencies and employees, as determined by the Commissioner, to the County, the City, or other persons, upon such terms and conditions, including consideration and length of term, as he may determine; provided, however, that before any such space is subleased to any other person, firm, partnership or corporation, the County and City shall be accorded, respectively, the right of first and second refusal of a sublease upon no less favorable terms. Any sublease hereunder shall survive any reconveyance of the leased Property to the State, or any exercise by the State of a right of re-entry thereupon pursuant to §2.03, occurring during the term of the sublease. No sublease shall have any adverse effect upon the prime lease or affect or reduce the State's obligations hereunder. No sublease to the County shall become merged in the fee title.

§4.14. *Liability for loss, damage or injury.*

(a) The County shall not be liable on account of loss or damage caused to any Public Improvement by fire, explosion or other catastrophe. The County agrees that the State shall not be required to carry insurance against such loss, but may, at the election of the State, insure or otherwise provide against the same. The premiums on such insurance, if any, shall be paid by the State.

(b) If the State, acting through the Commissioner, elects that such Improvements shall be repaired or reconstructed, the cost thereof may, at the election of the State, acting through such Commissioner, constitute a Project Cost. If the State elects to otherwise finance such repairs or reconstruction, funds therefor shall be made available to the County by the State and shall be deposited by the County in the Construction Account.

(c) If any proceeds of casualty insurance shall be payable to the County on account of such loss, and if the State shall have elected the repair or reconstruction of the damaged structure, such proceeds shall be deposited by the County in the Construction Account. If the State shall not have elected such repair or reconstruction, such proceeds shall be deposited in the Redemption Fund.

(d) In any event, there shall be no diminution of the Rentals otherwise provided for in this lease.

§4.15. *Inability of County to Sell Bonds.* If by reason of the judgment, decree or order of any court of competent jurisdiction, or of litigation, or of any fact or circumstance, other than the neglect or refusal of the County to perform its obligations under this Agreement, the County should be rendered unable to issue and sell Bonds to fund when due any Bond Anticipation Note or Notes sold to finance Project Costs or to reimburse the State for such Project Costs, and unable to renew such Note or Notes, the State shall, by a Notice in writing given to the County by the Commissioner, terminate, as of a date specified in such Notice, which date shall, if possible, be not later than five (5) days prior to the earliest date on which such Bond Anticipation Note or Notes shall fall due, the Lease and term thereof, provided for in §§4.01 and 4.02, as to the whole or such portion or portions of the leased property as specified in such Notice, and the obligation of the County, under §3.01, to construct Improvements thereon; the County shall and will execute and deliver to the State on the date specified in such Notice a deed conveying to the State, its successors and assigns, all property so specified in such Notice, in such form as to reconvey to the State all the rights, title and interest in said property which the County received from the State pursuant to the instrument or instruments of conveyance referred to in §2.03, together with any Public Improvement constructed thereon, subject only to such encumbrances, if any, as may have arisen pursuant to this Agreement, it being understood and agreed that the property so specified in such Notice shall be limited to the property in connection with which the

amount of the aggregate Project Costs paid or incurred to the date of such Notice is approximately equivalent to the amount of the principal and interest due and to become due on such Bond Anticipation Note or Notes hereinabove referred to; the State shall pay on the date specified in such Notice to the County an amount equal to the difference between the amount of principal and interest due and to become due on such outstanding Note or Notes and the amount then in the Construction Account and available for the payment of such principal and interest; and notwithstanding any other provision of this Agreement, the County shall hold and use the moneys so paid by the State and the moneys then in the Construction Account and available for payment of such principal and interest for the sole purpose of paying such principal and interest.

§4.16. *Reconveyance to State upon expiration of lease.* Upon expiration of this lease, as provided in §4.02, the County agrees to reconvey to the State, its successors and assigns, without additional payment therefor, all of the rights, title and interest in the leased Property, which the County received from the State pursuant to the instrument or instruments of conveyance delivered by the State to the County pursuant to §2.03 of this Agreement, together with all Public Improvements constructed thereon, free from encumbrances or rights of other persons therein, other than such encumbrances or rights as existed on the date of the conveyance or conveyances to the County pursuant to §2.03 or which were granted or created thereafter as provided in this Agreement. Such conveyance shall be by deed or deeds approved by the Attorney General and the Albany County Attorney as to form, sufficiency and manner of execution.

§4.17. *Disposition of surplus moneys.* If upon expiration of this lease there remain surplus moneys in any Special Fund hereunder, the County, after audit by the Comptroller, shall pay over such surplus moneys to the State.

ARTICLE V

FINANCING OF THE PROJECT

§5.01. *County to finance Project Costs.* The County agrees, subject only to the limitation in §1.07, to authorize, issue, and sell Bonds and Notes, pursuant to the Local Finance Law, in the aggregate not to exceed FOUR

HUNDRED EIGHTY MILLION DOLLARS (\$480,000,000), to finance all Project Costs.

§5.02. *State payment of Project Costs.* The State may pay any or all Project Costs in the first instance, and may request reimbursement therefor as provided in §5.03; and the County hereby requests the State to pay all Project Costs in the first instance.

§5.03. *Reimbursement of the State.* The County agrees to pay the State, as reimbursement to the State for all Project Costs paid by the State, as follows:

(a) On or before August 1, 1965, the sum of TWENTY-EIGHT MILLION, EIGHT HUNDRED EIGHTY-FOUR THOUSAND, TWO HUNDRED EIGHTY-FIVE AND EIGHTY ONE-HUNDREDTHS DOLLARS (\$28,884,285.80) as specified in §2.04(a).

(b) On or before August 1, 1965, all other Project Costs paid by the State up to and including March 31, 1965.

(c) Thereafter, all Project Costs paid by the State after March 31, 1965, each payment to be made within ninety (90) days after receipt by the County of a request by the Commissioner for reimbursement accompanied by the documents specified in §5.12(b) but in any event not later than the first day of October of each year following the close of the fiscal year of the State in which such Project Costs were paid by the State; provided, however, that if moneys are available therefor in the Construction Account, reimbursement shall be made on or before March 31 of each year in the amount of all unreimbursed Project Costs paid in the first instance by the State on or before the last day of the preceding February. A request for such reimbursement, together with the documents specified in §5.12(b), shall be transmitted to the County by the Commissioner not less than fifteen (15) days prior to each 31st day of March.

§5.04. *General terms of Bonds and Notes.*

(a) Notes shall mature within one year of the date of issue thereof and may be renewed for not more than one additional year. Except as otherwise provided in the applicable Note Resolution, payment of the principal of

and interest on Notes shall be made from the proceeds of Bonds in anticipation of which the Notes were issued or, if necessary, as provided in §4.15.

(b) Bonds may be issued in one or more series. All Bonds shall mature not later than the latest permissible expiration date of the lease as provided in §4.02, but may be issued with earlier maturity dates. Installments of principal on each series of Bonds shall be paid annually, commencing not later than eighteen (18) months after the date of such Bonds, or two (2) years after the date of the first Note or Notes issued in anticipation of such Bonds, whichever is earlier. Interest on each series of Bonds shall be paid semi-annually. Such payments of principal and interest shall become due only on the first or fifteenth days of any calendar month. All Bonds shall be on a parity and shall be equally secured as to payment of principal and interest by an irrevocable pledge of the faith and credit of the County.

(c) No Bonds shall be delivered during the period commencing on any Rental Date and ending on the last day of the calendar month in which such Rental Date occurs.

§5.05. General Resolution. Immediately upon execution and delivery of this Agreement, the County shall prepare and adopt a General Resolution, consistent with the terms of this Agreement, which shall set forth more fully than in this Agreement the general terms for authorization, issuance, and sale of all Bonds hereunder and for the security of purchasers, owners, and holders of such Bonds.

§5.06. Provision for initial financing. As soon as practicable thereafter, the County shall (a) secure the exclusion to the maximum extent possible of indebtedness proposed to be contracted hereunder as self-liquidating indebtedness pursuant to Section 123.00 of the Local Finance Law; (b) adopt a Bond Resolution consistent with the General Resolution and authorizing the issuance and sale of Bonds in the maximum amount permissible under the Local Finance Law or in such lesser amount as the Commissioner may specify, and (c) take such other action in connection therewith as is necessary to obtain the needed sums.

§5.07. Provision for subsequent financing. Thereafter the County shall from time to time adopt such Resolutions and take such other action as may be necessary to finance additional Project Costs and reimbursement of the State pursuant to §5.03(c).

§5.08. *Cooperation by the Commissioner.* The Commissioner shall keep the County informed of anticipated needs for money to pay Project Costs and shall give the County his full cooperation and assistance in all matters relating to financing of the Project. Without limiting the generality of the foregoing sentence, he shall also keep the County informed of reimbursable expenditures made by the State for Project Costs and shall render statements thereof periodically at such times as he and the County's chief fiscal officer shall agree. To the extent that the Commissioner deems necessary, he may arrange for financial consultants.

§5.09. *Consultation with the Commissioner.* The County agrees to consult with the Commissioner on the terms and timing of proposed sales of all Bonds and Notes issued hereunder and the contents of all Resolutions, certificates, applications, contracts, official statements, notices of sale, advertisements, and other documents relating to financing of the Project, and that such terms, contents and times of sale shall meet with the Commissioner's approval.

§5.10. *Disposition of proceeds of Bonds and Notes.* Immediately on receipt of proceeds from the sale of Bonds or Notes from purchasers thereof, the County shall:

(a) Make therefrom the payments required to pay the principal of and interest on outstanding Notes being funded and the principal of Bonds being refunded.

(b) Deposit in the Debt Service Fund (i) an amount equal to the interest on the Bonds just sold from the date of delivery thereof until the date when interest thereon is to be paid from moneys derived from Rentals paid by the State, and (ii) any accrued interest which purchasers of the Bonds may have paid thereon.

(c) Deposit the balance in the Construction Account.

§5.11. *Use of Construction Account.*

(a) Except as provided in §4.15 and subsections (b) and (c) of this section, moneys in the Construction Account shall be used only to pay Project Costs and to reimburse the State for Project Costs paid by the State in the first instance.

(b) Upon receipt of any interest or realization of any capital gain or other increment from investment of moneys in the Construction Account, the County shall immediately transfer the amount thereof to the Debt Service Fund.

(c) Upon completion of all Public Improvements for which requests for Construction have been communicated to the County, except for Improvements upon land to which the title has become revested in the State pursuant to the provisions of §2.03, and upon payment of all Project Costs of such completed structures, or upon revesting in the State of title to the entire South Mall pursuant to the provisions of §2.03, the Commissioner and the Comptroller may certify such facts to the County. The County shall thereupon transfer any moneys remaining in the Construction Account to the Redemption Fund.

§5.12. Procedures for payment of Project Costs and for reimbursement of the State.

(a) Before making payment for any Project Cost other than payments to the State in reimbursement of Project Costs paid previously by the State as an advance or in the first instance, the County shall file with the depository of the Construction Account the following documents:

(i) An authorization for payment signed by a duly authorized officer of the County stating in respect to each payment to be made (A) the item number of the payment; (B) the name of the person to whom payment is to be made; (C) the amount to be paid; (D) the general character of the Project Cost for which the payment is to be made; and (E) a brief description of the nature of the services, material, or Equipment for which payment is to be made; and

(ii) A statement by the Superintendent or the Commissioner that (A) the services were performed in a satisfactory manner or the material or Equipment delivered on time and in acceptable condition; (B) the amount of the payment is in accordance with a particular contract; (C) in his opinion the cost of the service, material, or Equipment constituted a valid Project Cost; and (D) the amount of the payment is reasonable.

(iii) A certificate by the Comptroller that such payment is proper.

(b) Before any payment in reimbursement of the State shall be made, the Superintendent or the Commissioner shall submit to the County an authorization and statement setting forth the same matters specified in subsection (a) of this section, together with a certificate by the Comptroller that such payments were made by the State and are subject to reimbursement.

§5.13. *Use of Redemption Fund.* Moneys in the Redemption Fund shall be used only as follows:

(a) To redeem outstanding Bonds in accordance with the Redemption provisions in such Bonds.

(b) To repurchase outstanding Bonds at prices not exceeding the face amounts thereof plus accrued interest.

(c) If, not less than one year before Redemption is permissible, the County's chief fiscal officer and the Commissioner agree that repurchase of outstanding Bonds appears impracticable in the light of existing market conditions, the County shall, upon request of the Commissioner, and not less than fifteen (15) nor more than thirty (30) days before the next Rental Date, transfer twenty percent (20%) of the moneys then in the Redemption Fund or \$500,000, whichever is the lesser, to the Debt Service Fund.

(d) Notwithstanding the foregoing provisions of this section, if, as of any Rental Date, no further Rentals shall be payable by the State as a result of the provisions of §4.06(b), and if the moneys in the Debt Service Fund as of such Rental Date are less than the Debt Service Requirement, the County shall immediately transfer from the Redemption Fund to the Debt Service Fund the amount necessary to make the moneys in the Debt Service Fund equivalent to the Debt Service Requirement.

(e) Notwithstanding the foregoing provisions of this section, if on any Rental Date the moneys in the Debt Service Fund are less than the Debt Service Requirement by virtue of a delay by the State in making a Rental payment, the County shall immediately transfer from the Redemption Fund to the Debt Service Fund any moneys then in the Redemption Fund, up to the amount necessary to bring the Debt Service Fund up to the Debt Service Requirement. Any amounts so transferred, however, shall immediately be restored by the County to the Redemption Fund as soon as the State's Rental payment is received.

(f) Notwithstanding the foregoing provisions of this section, if five (5) days before any Rental Date there are moneys in the Redemption Fund resulting from a payment into such Fund pursuant to §2.03, there shall be transferred to the Debt Service Fund so much of such moneys as is necessary to bring the Debt Service Fund up to the Debt Service Requirement as of said Rental Date.

IN WITNESS WHEREOF, the State has caused this instrument to be executed in its name by the Commissioner of General Services and the Superintendent of Public Works and their respective official seals to be hereunto affixed; and the County of Albany and The City of Albany has each caused its corporate seal to be hereunto affixed and this instrument to be signed by its duly authorized officer, all as of the day and year first above written.

THE PEOPLE OF THE STATE OF NEW YORK

By C. V. R. SCHUYLER and
Commissioner of General Services

By J. BURCH McMORRAN
Superintendent of Public Works

COUNTY OF ALBANY

By MICHAEL J. POWERS
Chairman of the Board of Supervisors

THE CITY OF ALBANY

By ERASTUS CORNING 2ND
Mayor

STATE OF NEW YORK }
 COUNTY OF ALBANY } ss.:

On this 11th day of May, 1965, before me appeared C. V. R. SCHUYLER, to me known and known to me to be the Commissioner of General Services of the State of New York and the same person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same as such Commissioner for and on behalf of and in the name of the People of the State of New York, pursuant to the provisions of Chapter 152 of the Laws of 1964 and Section 850 of the County Law.

TIMOTHY F. O'BRIEN
 Notary Public
 State of New York

TIMOTHY F. O'BRIEN
 Notary Public State of New York
 Qualified in Rensselaer County
 Commission expires March 30, 1966

STATE OF NEW YORK }
 COUNTY OF ALBANY } ss.:

On this 11th day of May, 1965, before me appeared J. BURCH McMORAN, to me known and known to me to be the Superintendent of Public Works of the State of New York and the same person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same as such Superintendent for and on behalf of and in the name of the People of the State of New York, pursuant to the provisions of Chapter 152 of the Laws of 1964 and Section 850 of the County Law.

TIMOTHY F. O'BRIEN
 Notary Public
 State of New York

TIMOTHY F. O'BRIEN
 Notary Public State of New York
 Qualified in Rensselaer County
 Commission expires March 30, 1966

STATE OF NEW YORK }
 COUNTY OF ALBANY } ss.:

On this 11th day of May, 1965, before me personally came ERASTUS CORNING, 2ND, to me known and who, being by me duly sworn, did depose and say that he resides at 116 South Lake Avenue in the City and County of Albany, New York; that he is the Mayor of the City of Albany, the corporation described in and which executed the above instrument; that he knows the seal of the said City; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to law and by order of the Common Council of said City pursuant to an ordinance duly adopted on April 28, 1965; and that he signed his name to the foregoing instrument by like order and authority.

TIMOTHY F. O'BRIEN
 Notary Public
 State of New York

TIMOTHY F. O'BRIEN
 Notary Public State of New York
 Qualified in Rensselaer County
 Commission expires March 30, 1966

STATE OF NEW YORK }
 COUNTY OF ALBANY } ss.:

On this 11th day of May, 1965, before me personally came MICHAEL J. POWERS, to me known and who being by me duly sworn, did depose and say that he resides at 57 Eileen Street in the City and County of Albany, New York; that he is the Chairman of the Board of Supervisors of the County of Albany, the corporation described in and which executed the above instrument; that he knows the seal of the said County; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to law and by order of the Board of Supervisors of said County pursuant to a resolution duly adopted on April 26, 1965; and that he signed his name to the foregoing instrument by like order and authority.

TIMOTHY F. O'BRIEN
 Notary Public
 State of New York

TIMOTHY F. O'BRIEN
 Notary Public State of New York
 Qualified in Rensselaer County
 Commission expires March 30, 1966

APPROVED AS TO FORM, SUFFICIENCY AND
MANNER OF EXECUTION

on the 11th day of May, 1965

LOUIS J. LEFKOWITZ

LOUIS J. LEFKOWITZ
Attorney General

APPROVED

on the 11th day of May, 1965

T. NORMAN FURD

T. NORMAN FURD
Director of the Budget

APPROVED WITH MEMORANDUM

on the 11th day of May, 1965

ARTHUR LEVITT

ARTHUR LEVITT
State Comptroller

APPROVED AS TO FORM

on the 11th day of May, 1965

JOHN J. CLYNE

JOHN J. CLYNE
County Attorney of the County of Albany

APPROVED AS TO FORM

on the 11th day of May, 1965

JOHN W. HACKER

JOHN W. HACKER
Corporation Counsel of the City of Albany

NOTE: A copy of the State Comptroller's memorandum referred to above will be furnished on request to any interested party by the County Treasurer, County Court House, Albany, New York, or by The First Boston Corporation, 20 Exchange Place, New York, N. Y. (Attention: Richard A. Phelps).