CITY OF LAGUNA HILLS
CITY COUNCIL/PLANNING AGENCY

REGULAR MEETING AGENDA
Tuesday, January 9, 2018 – 7:00 PM
(Closed Session at 6:00 PM when scheduled)

Mel Carruth, Mayor

Dore J. Gilbert, M.D., Mayor Pro Tempore | **Janine Heft, Council Member**

Barbara D. Kogerman, Council Member | **Don Sedgwick, Council Member**

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, CA 92653

Any person wishing to address the City Council/Planning Agency on any matter, whether or not it appears on this Agenda, is asked to complete a pink "Request to Speak" form available on the table at the back of the Chamber. The completed form is to be submitted to the City Clerk prior to an individual being heard by the City Council/Planning Agency. Completion of the form is voluntary. All persons may attend the meeting regardless of whether this form is completed.

Members of the public wishing to address the City Council can do so during the Public Comments portion of the Agenda with a time limitation of three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes for Public Comments. If you are commenting on an Agenda item, your comments will be heard at the time that item is scheduled on the Agenda. If you are addressing the City Council on an item not listed on the Agenda, the City Council is prohibited by law from discussing or taking any action on that item.

CLOSED SESSION - CONVENING AT 6:00 PM

CALL TO ORDER

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

ROLL CALL OF CITY COUNCIL MEMBERS

ANNOUNCEMENT OF CLOSED SESSION ITEM(S)

The City Council will convene in Closed Session, in the City Council Conference Room, City Hall, Laguna Hills Civic Center, to consider the following matter(s):

A. PUBLIC EMPLOYEE APPOINTMENT

Pursuant to Government Code Section 54957
Title: City Manager

B. CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Government Code Section 54957.6
Agency Negotiator: Don Sedgwick, Council Member
Unrepresented Employee: Donald J. White, Assistant City Manager

PUBLIC COMMENT ON CLOSED SESSION ITEM(S)

ADJOURN TO CITY COUNCIL CONFERENCE ROOM

CONVENE INTO CLOSED SESSION

The City Council will convene in Closed Session to consider the matter(s) listed above.

RECONVENE TO CITY COUNCIL CHAMBER

RECESS

CITY OF LAGUNA HILLS
CITY COUNCIL/PLANNING AGENCY

REGULAR MEETING AGENDA
Tuesday, January 9, 2018 – 7:00 PM

Mel Carruth, Mayor

Dore J. Gilbert, M.D., Mayor Pro Tempore | **Janine Heft, Council Member**

Barbara D. Kogerman, Council Member | **Don Sedgwick, Council Member**

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, CA 92653

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GENERAL BUSINESS - RECONVENING AT 7:00 PM

CALL TO ORDER

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

PLEDGE OF ALLEGIANCE: MAYOR PRO TEMPORE GILBERT

ROLL CALL OF CITY COUNCIL MEMBERS

CLOSED SESSION REPORT

1. PRESENTATIONS AND PROCLAMATIONS

1.1 Laguna Hills High School Student Liaison

Recommendation: That the City Council receive an update from Laguna Hills High School Student Liaison Maya Williams.

1.2 Laguna Hills 3/5 Marine Support Committee

Recommendation: That the City Council receive an update from Chair Karen Robbins on the 3/5 Dark Horse Committee.

1.3 Team Dark Horse Presentation

Recommendation: That the City Council receive a presentation from Mike Bland and Colonel Jason Morris on Team Dark Horse.

1.4 Recognition of Lieutenant Roland Chacon on the Occasion of His Retirement

Recommendation: That the City Council present Lieutenant Roland Chacon with a Certificate of Recognition and a City Tile recognizing Lt. Chacon for his service to the City.

2. PUBLIC COMMENTS

This is the time to address the City Council on any matter not listed on this Agenda that is within the subject matter jurisdiction of the City Council. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

3. CONSENT CALENDAR

All matters listed under "CONSENT CALENDAR" are considered to be routine and will be enacted by one motion approving the recommendation listed on the Agenda. There will be no separate discussion unless Members of the City Council or Staff request specific items be removed from the Consent Calendar.

3.1 Waive Reading in Full of all Ordinances and Resolutions on the Agenda

Recommendation: That the City Council waive reading in full of all Ordinances and Resolutions on the Agenda and declare that said titles which appear on the Public Agenda shall be determined to have been read by title and further reading waived.

3.2 <u>Approval of Minutes for December 12, 2017, Regular Meeting</u>

Recommendation: That the City Council approve the Minutes for the December 12, 2017, Regular Meeting.

3.3 <u>Approval of Warrant Register for Period Ended January 9, 2018</u>

Recommendation: That the City Council approve the Warrant Register in the amount of $1,153,089.86.

3.4 <u>Second Reading and Adoption of Proposed Ordinance Amending Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code Relating to Enforcement and Establishment of Parking Penalties</u>

Recommendation: That the City Council adopt an Ordinance entitled: "An Ordinance of the City of Laguna Hills, California, Amending Certain Sections of Chapter 11-04 (General Provisions and Administration) and Chapter 11-12 (Stopping, Standing and Parking) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code relating to the Enforcement and Establishment of Parking Penalties."

3.5 <u>First Amendment to Lease with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California</u>

Recommendation: That the City Council approve the First Amendment to Lease with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California, and authorize the City Manager to execute the First Amendment to Lease.

ITEMS REMOVED FROM THE CONSENT CALENDAR

4. PLANNING AGENCY

4.1 ROLL CALL OF PLANNING AGENCY MEMBERS

4.2 PUBLIC COMMENTS

This is the time to address the Planning Agency on any matter not listed on this Agenda that is within the subject matter jurisdiction of the Planning Agency. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

4.3 APPROVAL OF MINUTES FOR DECEMBER 12, 2017, REGULAR MEETING

4.3.1 Approval of Minutes for December 12, 2017, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the December 12, 2017, Regular Meeting.

4.4 ADMINISTRATIVE REPORTS

4.5 PLANNING AGENCY PUBLIC HEARINGS

4.5.1 Conditional Use Permit No. 8-17-3947, a Request by Mehdi Motadi to Establish and Operate an Indoor Vehicle Towing and Indoor Vehicle Impound Services Business at 22912 El Pacifico Drive (APN 588-061-16) in the Mixed Use Zoning District

Recommendation: That the Planning Agency: (1) Conduct a Public Hearing for Conditional Use Permit No. 8-17-3947; (2) Find and determine that the project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 of Title 14, Chapter 3 of the California Code of Regulations (Class 1, Existing Facilities exemption); and (3) Adopt a Resolution entitled: "A Resolution of the Planning Agency of the City of Laguna Hills, California, approving Conditional Use Permit (CUP) No. 8-17-3947, a request by Mehdi Motadi to establish and operate an indoor vehicle towing and indoor vehicle impound services business at 22912 El Pacifico Drive (APN 588-061-16) in the Mixed Use (MXU) Zoning District."

PLANNING AGENCY ADJOURNMENT

5. CITY COUNCIL PUBLIC HEARINGS

6. ADMINISTRATIVE REPORTS

6.1 City Manager

6.2 City Attorney

6.2.1 Appointment of City Manager and Approval of a Proposed City Manager Employment Agreement

Recommendation: That the City Council:

(1) Receive and file an oral report providing a summary of the Council-designated labor representative's recommendations concerning proposed changes in salary and benefits for Donald J. White, a local agency executive, to serve as City Manager; and

(2) Appointment of Donald J. White as City Manager of the City of Laguna Hills, effective February 3, 2018, to serve at the direction and pleasure of the City Council, pursuant to Laguna Hills Municipal Code Chapter 2-08; and

(3) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, Appointing Donald J. White as City Manager and Approving and Authorizing the Mayor to Execute a City Manager Employment Agreement;" and

(4) Direct the City Clerk to administer the Oath of Office.

6.3 City Clerk

6.3.1 <u>City Council "Other Agencies" Appointed Representatives</u>

Recommendation: That the City Council take the following actions:

(1) Review the City of Laguna Hills City Council "Other Agencies" Appointed Representatives List, provide direction to staff regarding any necessary changes for appointments to the list, and, by motion, approve the City Council "Other Agencies" Appointed Representatives List, as revised by the City Council; and

(2) If any changes are desired to the Representative to the Orange County Fire Authority's Board of Directors, adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, designating and appointing its Representative to the Orange County Fire Authority's Board of Directors;" and

(3) Approve and direct the City Clerk to prepare and post an updated FPPC Disclosure Form 806 to reflect all paid appointments to "Other Agencies" boards, committees, and/or commissions in accordance with state law.

7. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS

8. CITY COUNCIL MEMBER COMMENTS

ADJOURNMENT

The next Regular Meeting of the City Council/Planning Agency will be January 23, 2018, in the City Council Chamber, located at 24035 El Toro Road, Laguna Hills, California.

CERTIFICATION

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, do hereby certify that a copy of the foregoing Agenda was posted at Laguna Hills City Hall, Laguna Hills Community Center, and the Courtyard at La Paz Center on January 5, 2018, by 5:00 p.m.

________________________	**January 5, 2018**
City Clerk	***Date***

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the office of the City Clerk at (949) 707-2635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 24035 El Toro Road, Laguna Hills, California, during normal business hours.

City Council Members receive no additional compensation or stipend as a result of simultaneously convening meetings of the Laguna Hills Planning Agency.

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: **January 9, 2018**

TO: **Mayor and Council Members**

FROM: **Melissa Au-Yeung**
Assistant to the City Manager/City Clerk

ISSUE: **Recognition of Lieutenant Roland Chacon on the Occasion of His Retirement**

RECOMMENDATION: That the City Council present Lieutenant Roland Chacon with a Certificate of Recognition and a City Tile recognizing Lt. Chacon for his service to the City.

SUMMARY:

Lieutenant Roland Chacon, with the Orange County Sheriff's Department, has served as the City of Laguna Hills' Chief of Police Services from February 21, 2014, through January 18, 2018.

Lt. Chacon has decided to retire effective January 18, 2018. Therefore, it is in order to present him with a Certificate of Recognition and a City tile recognizing and commending him for his outstanding service to the City of Laguna Hills.

ATTACHMENTS:

- Cert of Recog - Lt. Chacon

CITY OF LAGUNA HILLS

CERTIFICATE OF RECOGNITION

LT. ROLAND CHACON

Chief of Police Services

WHEREAS, *Lt. Roland Chacon has served as Chief of Police Services for the City of Laguna Hills from February 21, 2014, through January 18, 2018; and*

WHEREAS, *Lt. Roland Chacon has proven himself to be a person of immense character, honesty, and loyalty; and*

WHEREAS, *the performance of his duties and responsibilities and his working relationships have been characterized by an obvious dedication to getting the job done well; and*

WHEREAS, *Lt. Roland Chacon, while serving as the Chief of Police Services, played an instrumental role in assuring the general feeling of safety of our residents and the low rate of crime in our City; successfully managing security and providing protection for athletes and support staff members during the 2015 Special Olympics Host Town Event; oversaw the continuation of the City's Community Oriented Policing Plan, focusing on developing trusting relations throughout the community; and in maintaining very positive relationships with Laguna Hills High School and other local schools through the SRO Program; and*

WHEREAS, *Lt. Roland Chacon has decided to retire effective January 18, 2018, and will be missed by the staff and City Council.*

NOW, THEREFORE, *the City Council of the City of Laguna Hills, California, does hereby express sincere appreciation and thanks to Lt. Roland Chacon for his distinguished and dedicated service to the City of Laguna Hills, highly commends him for the manner in which he has carried out his duties as Chief of Police Services; and wishes him nothing but success in his future endeavors.*

Dated this 9th day of January 2018.

Melody Carruth, Mayor

Dore Gilbert, M.D., Mayor Pro Tempore

Janine Heft, Council Member

Barbara Kogerman, Council Member

Don Sedgwick, Council Member

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: January 9, 2018

TO: Mayor and Council Members

FROM: Cindy Sands
Admin. Assistant to City Manager

ISSUE: Approval of Minutes for December 12, 2017, Regular Meeting

RECOMMENDATION: That the City Council approve the Minutes for the December 12, 2017, Regular Meeting.

ATTACHMENTS:

- 171212 CC Minutes

CITY OF LAGUNA HILLS
CITY COUNCIL/PLANNING AGENCY

REGULAR MEETING
MINUTES
Tuesday, December 12, 2017

CLOSED SESSION - CONVENING AT 6:00 PM

CALL TO ORDER

The meeting was called to order at 6:00 p.m. by Mayor Don Sedgwick.

ROLL CALL OF CITY COUNCIL MEMBERS

Attendee Name	Title	Status	Arrived
Don Sedgwick	Mayor	Present	
Mel Carruth	Mayor Pro Tempore	Present	
Dore J. Gilbert, M.D.	Council Member	Present	
Janine Heft	Council Member	Present	
Barbara D. Kogerman	Council Member	Present	

ANNOUNCEMENT OF CLOSED SESSION ITEM(S)

A. PUBLIC EMPLOYEE APPOINTMENT

Pursuant to Government Code Section 54957
Title: City Manager

B. CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Government Code Section 54957.6
Agency Negotiator: Don Sedgwick, Mayor
Unrepresented Employee: Donald J. White, Assistant City Manager

PUBLIC COMMENT ON CLOSED SESSION ITEM(S)

There were no Public Comments.

ADJOURN TO CITY COUNCIL CONFERENCE ROOM

CONVENE INTO CLOSED SESSION

The City Council convened into Closed Session to consider the matter(s) listed above.

RECONVENE TO CITY COUNCIL CHAMBER

RECESS

GENERAL BUSINESS - RECONVENING AT 7:00 PM

CALL TO ORDER

The meeting was called to order at 7:02 p.m. by Mayor Don Sedgwick.

PLEDGE OF ALLEGIANCE: MAYOR PRO TEMPORE CARRUTH

ROLL CALL OF CITY COUNCIL MEMBERS

Attendee Name	Title	Status	Arrived
Don Sedgwick	Mayor	Present	
Mel Carruth	Mayor Pro Tempore	Present	
Dore J. Gilbert, M.D.	Council Member	Present	
Janine Heft	Council Member	Present	
Barbara D. Kogerman	Council Member	Present	

Mayor Sedgwick took the Closed Session Report out of order on the agenda.

CLOSED SESSION REPORT

A. **PUBLIC EMPLOYEE APPOINTMENT**
Pursuant to Government Code Section 54957

B. **CONFERENCE WITH LABOR NEGOTIATOR**
Pursuant to Government Code Section 54957.6

Mayor Sedgwick reported that the City Council met in Closed Session this evening and received a full oral report from City Attorney Simonian.

City Attorney Simonian stated that the City Council convened in Closed Session this evening pursuant to the legal authorities identified on the Closed Session Agenda to consider the appointment of public employee for the City Manager position, as well as to conference with the Council-appointed Labor Representative.

Both Closed Session items this evening pertained to the letter of resignation recently received from the City Manager and the process for selecting a new City Manager, following the decision made by Mr. Bruce Channing to retire after 26-years of service to the City.

The City Council is currently in the process of completing the process for selecting and retaining a new City Manager prior to Mr. Channing's February 2, 2018, retirement date.

As previously directed by the City Council, over the past several weeks the City has been exploring the possibility of recruiting from within to fill the position.

The internal recruitment process has been completed.

The City Council unanimously voted during Closed Session to appoint Don White as the next City Manager, subject to preparation by the City Attorney and approval by the City Council of a new City Manager Employment Agreement, which is to be agendized for City Council review and approval on January 9, 2018.

Once approved by City Council, the terms and conditions of Mr. White's employment with the City as its new City Manager will be made publically available on the General Business Agenda for the City Council's January 9, 2018, City Council meeting, and thereafter by request of any member of the public through the City Clerk's office.

This concludes the Closed Session Report.

CITY COUNCIL REORGANIZATION

REMARKS OF OUTGOING MAYOR

Outgoing Mayor Sedgwick remarked that it was an honor to represent the City of Laguna Hills as Mayor, reviewed his experiences, and summarized the City's major accomplishments for 2017.

ELECTION OF MAYOR

The City Council nominated and elected Mel Carruth as Mayor.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Barbara D. Kogerman, Council Member
SECONDER:	Dore J. Gilbert, M.D., Council Member
AYES:	Don Sedgwick, Mayor; Mel Carruth, Mayor Pro Tempore; Dore J. Gilbert, M.D., Council Member; Janine Heft, Council Member; Barbara D. Kogerman, Council Member

RECOGNITION OF OUTGOING MAYOR

RESOLUTION OF COMMENDATION, DON SEDGWICK, MAYOR

Recommendation: That the City Council adopt Resolution No. 2017-12-12-1, A Resolution of the City Council of the City of Laguna Hills, California, commending Don Sedgwick as Mayor.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dore J. Gilbert, M.D., Council Member
SECONDER:	Janine Heft, Council Member
AYES:	Mel Carruth, Mayor; Dore J. Gilbert, M.D., Council Member; Janine Heft, Council Member; Barbara D. Kogerman, Council Member; Don Sedgwick, Council Member

Mayor Carruth presented a Resolution and plaque to Don Sedgwick recognizing his service to the City as Mayor of the City of Laguna Hills. Jefferson Cha, District Representative, Congresswoman Mimi Walters' Office, also presented a Certificate of Recognition to Council Member Sedgwick for his service as Mayor.

REMARKS OF COUNCIL MEMBERS REGARDING MAYOR SEDGWICK'S SERVICE TO THE CITY

The Council Members expressed their appreciation to outgoing Mayor Sedgwick for his service to the City.

REMARKS OF NEWLY ELECTED MAYOR

ELECTION OF MAYOR PRO TEMPORE

The City Council nominated and elected Dore J. Gilbert, M.D., as Mayor Pro Tempore.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Don Sedgwick, Council Member
SECONDER:	Janine Heft, Council Member
AYES:	Mel Carruth, Mayor; Dore J. Gilbert, M.D., Mayor Pro Tempore; Janine Heft, Council Member; Barbara D. Kogerman, Council Member; Don Sedgwick, Council Member

RECESS AND RECONVENE

Mayor Carruth recessed the meeting at 7:25 p.m. and reconvened the meeting at 7:29 p.m.

1. PRESENTATIONS AND PROCLAMATIONS

1.1 Laguna Hills High School Student Liaison

Recommendation: The City Council received an oral report from Laguna Hills High School Student Liaison Maya Williams.

2. PUBLIC COMMENTS

Orange County Realtors

Tony Faulkner, a representative from the Orange County Realtors, introduced himself to City Council and staff.

Chamber of Commerce

Meg Gorham, a resident of Laguna Hills and representative of the Chamber of Commerce (Chamber), welcomed the City of Laguna Hills as a partner in the Chamber, invited Council Members to the Chamber's Holiday Party to be held on Thursday, December 14, 2017, and the 2018 State of the City Address to be held on Thursday, January 11, 2018. Ms. Gorham also invited Council Members to become involved in the Laguna Hills High School Grad Night Preview Event and discussed an upcoming event, "Trucking on Back to School," to be held on Saturday, August 11, 2018. Ms. Gorham also voiced her opinion regarding what she feels is a sort of disconnect in communication relating to activities and events happening throughout the City.

U.S. House of Representatives

Jefferson Cha, District Representative, Congresswoman Mimi Walters' Office, introduced himself to City Council and staff.

3. CONSENT CALENDAR

Motion to approve the Consent Calendar:

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Janine Heft, Council Member
SECONDER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
AYES:	Mel Carruth, Mayor; Dore J. Gilbert, M.D., Mayor Pro Tempore; Janine Heft, Council Member; Barbara D. Kogerman, Council Member; Don Sedgwick, Council Member

3.1 Waive Reading in Full of all Ordinances and Resolutions on the Agenda

Recommendation: That the City Council waive reading in full of all Ordinances and Resolutions on the Agenda and declare that said titles which appear on the Public Agenda shall be determined to have been read by title and further reading waived.

3.2 Approval of Minutes for November 28, 2017, Regular Meeting

Recommendation: That the City Council approve the Minutes for the November 28, 2017, Regular Meeting.

3.3 Approval of Warrant Register for Period Ended December 12, 2017

Recommendation: That the City Council approve the Warrant Register in the amount of $164,265.28.

3.4 2018 City Council Meeting Schedule

Recommendation: That the City Council adopt the proposed calendar for 2018.

3.5 Affirmation of Appointments List for City Boards, Commissions, and Committees

Recommendation: That the City Council affirm the Local Appointments List and direct that it be posted in the Laguna Hills Branch Technology Library in accordance with the Maddy Act.

3.6 Annual Review of Investment & Portfolio Policies and Delegation of Investment Authority to the City Treasurer

Recommendation: That the City Council adopt Resolution No. 2017-12-12-2, A Resolution of the City Council of the City of Laguna Hills, California, delegating investment authority to the City Treasurer and approving a policy for the investment of surplus City funds and rescinding Resolution No. 2016-12-13-7.

3.7 M2 Expenditure Report for the Fiscal Year Ended June 30, 2017

Recommendation: That the City Council: (1) Approve the Measure M2 Expenditure Report for the Fiscal Year ended June 30, 2017, for submittal to OCTA; and (2) Adopt Resolution No. 2017-12-12-3, A Resolution of the City Council of the City of Laguna Hills, California, concerning the Measure M2 Expenditure Report for the City of Laguna Hills for the Fiscal Year ended June 30, 2017.

3.8 Amendment to Retainer Agreement for City Attorney Services

Recommendation: That the City Council adopt Resolution No. 2017-12-12-4, A Resolution of the City Council of the City of Laguna Hills, California, approving Amended Exhibit A to the Retainer Agreement for City Attorney Service Rates.

3.9 Memorandum of Understanding with Moulton Niguel Water District for Collaborative Efforts to Improve Surface Water Quality

Recommendation: That the City Council approve the Memorandum of Understanding with Moulton Niguel Water District related to collaborative efforts to improve surface water quality and authorize the City Manager to execute the Agreement.

ITEMS REMOVED FROM THE CONSENT CALENDAR

There were no items removed from the Consent Calendar.

4. PLANNING AGENCY

Mayor Carruth recessed the City Council meeting and, acting in the capacity of Chair, called the Regular Meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:40 p.m.

4.1 ROLL CALL OF PLANNING AGENCY MEMBERS

Attendee Name	Title	Status	Arrived
Mel Carruth	Chair	Present	
Dore J. Gilbert, M.D.	Vice Chair	Present	
Janine Heft	Agency Member	Present	
Barbara D. Kogerman	Agency Member	Present	
Don Sedgwick	Agency Member	Present	

4.2 PUBLIC COMMENTS

There were no Public Comments.

4.3 APPROVAL OF MINUTES FOR NOVEMBER 28, 2017, REGULAR MEETING

4.3.1 Approval of Minutes for November 28, 2017, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the November 28, 2017, Regular Meeting.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dore J. Gilbert, M.D, Vice Chair
SECONDER:	Don Sedgwick, Agency Member
AYES:	Mel Carruth, Chair; Dore J. Gilbert, M.D., Vice Chair; Janine Heft, Agency Member; Barbara D. Kogerman, Agency Member; Don Sedgwick, Agency Member

4.4 ADMINISTRATIVE REPORTS

There were no Administrative Reports.

4.5 PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency Public Hearings.

PLANNING AGENCY ADJOURNMENT

Mayor Carruth reconvened the City Council Meeting at 7:41 p.m. All Council Members were present.

5. CITY COUNCIL PUBLIC HEARINGS

There were no City Council Public Hearings.

6. ADMINISTRATIVE REPORTS

6.1 City Manager

6.1.1 2017 City Manager's Year End Report

City Manager Channing briefly summarized the information provided in the Staff Report.

Recommendation: That the City Council receive and file the 2017 City Manager's Year End Report.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Don Sedgwick, Council Member
SECONDER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
AYES:	Mel Carruth, Mayor; Dore J. Gilbert, M.D., Mayor Pro Tempore; Janine Heft, Council Member; Barbara D. Kogerman, Council Member; Don Sedgwick, Council Member

6.2 Assistant City Manager

6.2.1 Presentation of the Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended June 30, 2017

Assistant City Manager White summarized the information provided in the Staff Report.

Recommendation: That the City Council receive and file the Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended June 30, 2017, together with the audit letters.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Don Sedgwick, Council Member
SECONDER:	Janine Heft, Council Member
AYES:	Mel Carruth, Mayor; Dore J. Gilbert, M.D., Mayor Pro Tempore; Janine Heft, Council Member; Barbara D. Kogerman, Council Member; Don Sedgwick, Council Member

6.3 Chief of Police Services

6.3.1 Updated Schedule of Penalties for Parking Violations and Late Payment Penalties

Sergeant Prince reviewed the information provided in the Staff Reports for Item No. 6.3.1 and Item No. 6.3.2, combined, and provided a PowerPoint presentation.

Recommendation: That the City Council adopt Resolution No. 2017-12-12-5, A Resolution of the City Council of the City of Laguna Hills, California, establishing an Updated Schedule of Penalties for Parking Violations and Late Payment Penalties.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
SECONDER:	Barbara D. Kogerman, Council Member
AYES:	Mel Carruth, Mayor; Dore J. Gilbert, M.D., Mayor Pro Tempore; Janine Heft, Council Member; Barbara D. Kogerman, Council Member; Don Sedgwick, Council Member

6.3.2 Proposed Ordinance Amending Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code Relating to Enforcement and Establishment of Parking Penalties

Recommendation: That the City Council introduce for first reading, read by title only, and waive further reading, an Ordinance entitled: "An Ordinance of the City of Laguna Hills, California, Amending Certain Sections of Chapter 11-04 (General Provisions and Administration) and Chapter 11-12 (Stopping, Standing and Parking) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code relating to the Enforcement and Establishment of Parking Penalties."

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Janine Heft, Council Member
SECONDER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
AYES:	Mel Carruth, Mayor; Dore J. Gilbert, M.D., Mayor Pro Tempore; Janine Heft, Council Member; Barbara D. Kogerman, Council Member; Don Sedgwick, Council Member

7. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS

There were no matters agendized and presented by City Council Members and Mayor.

8. CITY COUNCIL MEMBER COMMENTS

Mayor Carruth

Mayor Carruth reported that the Transportation Corridor Agency was disappointed at the action taken by the Orange County Transportation Authority to delay the State Route 241/91 Connector. Mayor Carruth also thanked Council for the great honor bestowed upon her to serve as Mayor in 2018.

9. CLOSED SESSION

The City Council will not be reconvening into Closed Session as the Closed Session discussions were completed between 6:00 p.m. and 7:00 p.m.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Carruth declared the meeting adjourned at 8:03 p.m.

Melissa Au-Yeung, City Clerk

ATTEST:

Melody Carruth, Mayor

Approved at meeting of January 9, 2018.

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: January 9, 2018

TO: Mayor and Council Members

FROM: Donald J. White
Assistant City Manager

ISSUE: Approval of Warrant Register for Period Ended January 9, 2018

RECOMMENDATION: That the City Council approve the Warrant Register in the amount of $1,153,089.86.

ATTACHMENTS:

- Warrant Register 010918

City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: JANUARY 09, 2018

TO: MAYOR AND COUNCIL MEMBERS

FROM: DONALD J. WHITE, ASSISTANT CITY MANAGER

ISSUE: APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED JANUARY 09, 2018.

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER IN THE AMOUNT OF $1,153,089.86.

SUMMARY:

In accordance with Government Code Section 37202, the attached Warrant Register reflects the disbursements of the City of Laguna Hills for the period reported thereon. The Assistant City Manager certifies and attests to its accuracy and the availability of funds for the payment thereof. These warrants are hereby submitted to the City Council for approval of payment.

Prepared by:

JANICE MATEO REYES
Finance Manager

Certified:

original signed
DONALD J. WHITE
Assistant City Manager

January 09, 2018
DATE

FISCAL IMPACT:

The warrant register total is $1,153,089.86.

ATTACHMENTS:

1. **Warrant Register**

Check Register Report

Warrant Register 01/09/18

Date: 01/02/2018
Time: 8:48 am
Page:

CITY OF LAGUNA HILLS

BANK: UNION BANK- GENERAL

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Am
UNION BANK- GENERAL Checks							
8813782	12/07/2017	Printed		A-0331	AT&T MOBILITY	Wireless Service, Nov '17	6
8813783	12/07/2017	Printed		B-0276	BANK OF AMERICA	Departmental Expenditure, Nov	18,06
8813784	12/07/2017	Printed		C-1168	CAPITAL ONE COMMERCIAL	Costco, Program Expense, CS	9
8813785	12/07/2017	Printed		C-0023	COX COMMUNICATION	WiFi & Cable, CH, WiFi Com Ctr	38
8813786	12/07/2017	Printed		C-1146	CYBERSOURCE CORPORATION	Gateway Expense, Nov '17	2
8813787	12/07/2017	Printed		E-0587	EMC DESIGN	City Views, Winter Issue	3,51
8813788	12/07/2017	Printed		C-1007	LAW ENFORCEMENT	Law Enforcement Svcs, Dec '17	663,82
8813789	12/07/2017	Printed		C-0448	LUCY, STEVEN	Program Expense, CS, 12/15/17	50
8813790	12/07/2017	Printed		Z-CS-0077	MENDEZ, SILVESTRE	Refund, Fac Dep, V#2004260.002	50
8813791	12/07/2017	Printed		S-1902	SAN DIEGO GAS & ELECTRIC	ST Lites, Nov '17	14,37
8813792	12/07/2017	Printed		S-1904	SOUTHERN CALIFORNIA EDISON	ST Lites, TC, Nov '17	1,03
8813793	12/07/2017	Printed		T-2698	TPX COMMUNICATIONS	Communications Expense, Dec	1,27
8813794	12/14/2017	Printed		A-0364	AIELLI, ROGER	Umpire Fees, Softball, CS	9
8813795	12/14/2017	Printed		A-0138	ALL CITY MANAGEMENT, INC.	Crossing Guard Svc, 11/5-11/18	3,88
8813796	12/14/2017	Printed		A-0311	ALLIANT INSURANCE SERVICES	Commercial Auto Premium	4,69
8813797	12/14/2017	Printed		A-0359	ANDERSON PENNA PARTNERS, INC.	Inspection Services, Nov '17	2,56
8813798	12/14/2017	Printed		A-0367	ARBORGATE CONSULTING, INC.	Consulting Services, Dec '17	2,00
8813799	12/14/2017	Printed		A-0360	ARC DOCUMENT SOLUTIONS, LLC	Printing Services, Engineering	6
8813800	12/14/2017	Printed		C-0412	C&D ELECTRIC, INC.	Park & Com Ctr Repair, Dec '17	8,09
8813801	12/14/2017	Printed		C-1133	CALIFORNIA YELLOW CAB	Senior Mobility Program, Nov	2,85
8813802	12/14/2017	Printed		C-1179	CANON SOLUTIONS AMERICA	Com Svcs Copier Usage, Nov '17	17
8813803	12/14/2017	Printed		C-1022	CDW GOVERNMENT, INC.	Computer Hardware, Gen Gov	16
8813804	12/14/2017	Printed		C-1144	CHARLES ABBOTT ASSOCIATES, INC	Road Maintenance, Nov '17	45,85
8813805	12/14/2017	Printed		C-0324	CITY OF MISSION VIEJO	Animal Care Services, FY 16/17	17,92
8813806	12/14/2017	Printed		C-1139	COMPLETE OFFICE OF CALIFORNIA	Computer, Office&Operating Sup	571
8813807	12/14/2017	Printed		C-1176	COMPUTER SERVICE CO.	Traffic Sig. Maint, Nov '17	8,81
8813808	12/14/2017	Printed		C-0023	COX COMMUNICATION	T-1 Line, Traffic Control, Dec	89
8813809	12/14/2017	Printed		D-0491	DELL COMPUTER CORPORATION	Computer Hardware, Nov '17	301
8813810	12/14/2017	Printed		D-0561	DOCU-TRUST	Offsite Data Storage, Nov	7
8813811	12/14/2017	Printed		D-0552	DUNBAR ARMORED, INC.	Courier Fee, Armored Trans,Dec	141
8813812	12/14/2017	Printed		G-0791	GORMAN, RON	Contract Inst Svcs, Guitar	27
8813813	12/14/2017	Printed		H-0804	HINDERLITER, DE LLAMAS & ASSOC	Sales Tax 4thQtr,AuditSales2nd	3,062
8813814	12/14/2017	Printed		I-0942	IRVINE RANCH WATER DISTRICT	Water Usage, Public Svcs, Nov	14
8813815	12/14/2017	Printed		J-1057	JAMEY CLARK, INC.	Graffiti Removal, Nov-Dec	64
8813816	12/14/2017	Printed		J-1071	JCTEES.COM CORPORATION	Program Supplies& 1/2 Marathon	1,38
8813817	12/14/2017	Printed		L-1376	LONG BEACH BMW MOTORCYCLES	Motorcycle Maint, PS, Nov '17	22
8813818	12/14/2017	Printed		M-1573	MATRIX CONSULTING GROUP	Prof Svcs, Final PayOCSD Study	1,872
8813819	12/14/2017	Printed		M-1590	MILLENNIUM ALARM SYSTEMS, INC.	Maint Agreement Cameras, CC	1,00
8813820	12/14/2017	Printed		M-1388	MOBILE MINI, INC.	Storage Rental, CC, 12/5-01/01	82
8813821	12/14/2017	Printed		M-1302	MOULTON NIGUEL WATER DISTRICT	Water Usage, Pub Svcs, Nov '17	18,491
8813822	12/14/2017	Printed		N-1474	NIEVES LANDSCAPE, INC.	Monthly and Misc Landscape,Dec	81,725
8813823	12/14/2017	Printed		C-1008	NPDES	Watershed Monitoring,CIP#410	8,972
8813824	12/14/2017	Printed		O-1546	OFFICE SOLUTIONS	Office/Operating Supplies	805
8813825	12/14/2017	Printed		O-1500	ORANGE COUNTY REGISTER	Subscription, CC, 1/1-2/26	99
8813826	12/14/2017	Printed		O-1575	ORANGE COUNTY REGISTER-FREEDOM	Legal Advertising, Nov '17	411
8813827	12/14/2017	Printed		P-1828	PARSONS, ROSS	Program Expense, Umpire Fees	90
8813828	12/14/2017	Printed		P-1831	PEREZ, WILLIAM	Claim Settlement Agreement	474
8813829	12/14/2017	Printed		Z-CD-0083	PERMIT RUNNER	Refund, Permit Fees, CR# 56973	228
8813830	12/14/2017	Printed		P-1829	PEST OPTIONS, INC.	Rodent Control, PS, Nov	225
8813831	12/14/2017	Printed		R-1830	RALPHS GROCERY COMPANY	Program Expense, CS, Nov '17	59.35
8813832	12/14/2017	Printed		R-1939	REYES, JANICE MATEO	Petty Cash Replenishment, Dec	1,089.94

Check Register Report

Warrant Register 01/09/18

Date: 01/02/2018
Time: 8:48 am
Page:

CITY OF LAGUNA HILLS

BANK: UNION BANK- GENERAL

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amı
UNION BANK- GENERAL Checks							
8813833	12/14/2017	Printed		R-1855	RICHARD FISHER ASSOCIATES	Professional Services, Pub Svc	5,10
8813834	12/14/2017	Printed		R-1841	ROSENFIELD, KEN	ElectronicDevice Reimbursement	85
8813835	12/14/2017	Printed		R-1813	RPW SERVICES, INC.	Rodent Control, Pub Svcs, Nov	1,56
8813836	12/14/2017	Printed		R-1967	RUSSELL, RICHARD WYATT	Contract Inst Svcs, Tennis	1,79
8813837	12/14/2017	Printed		S-2197	SAFECHECKS	Printing Expense, Finance	49
8813838	12/14/2017	Printed		S-1902	SAN DIEGO GAS & ELECTRIC	ST Lites, TC, Nov '17	28
8813839	12/14/2017	Printed		S-2288	SHINE ILLUMINATION	Holiday Lighting,Final Payment	21,53
8813840	12/14/2017	Printed		S-1949	SMART & FINAL	Office & Program Sup. CH & CC	16
8813841	12/14/2017	Printed		S-1904	SOUTHERN CALIFORNIA EDISON	ST Lites, TC, Nov '17	8,23
8813842	12/14/2017	Printed		S-2250	SPARKLETTS	Operating Supplies, CH, Nov 17	14
8813843	12/14/2017	Printed		S-1940	STATE WATER RESOURCES CONTROL	Annual Permit Fees, Pub Svcs	26,10
8813844	12/14/2017	Printed		S-2209	STUDIO TWO BLACK DIAMOND	Printing Services, Dec '17	67
8813845	12/14/2017	Printed		S-2201	SUNSET PROPERTY SERVICES	Street Sweeping, Nov '17	10,35
8813846	12/14/2017	Printed		T-2639	TURF STAR, INC.	Maint, Utility Cart, CC, Nov	49
8813847	12/14/2017	Printed		T-2656	TYLER TECHNOLOGIES, INC.	Prof Svcs, Incode/Energov Mgmt	10,82
8813848	12/14/2017	Printed		U-2165	UNDERGROUND SERVICE ALERT	Street Maintenance, Nov '17	97
8813849	12/14/2017	Printed		V-2249	US BANK VOYAGER FLEET SYS	Vehicle Fuel, Nov '17	1,62
8813850	12/14/2017	Printed		U-2163	USA DANCE, INC., OC CHAP #4018	Contract Inst Svcs, Dance	14
8813851	12/14/2017	Printed		U-2166	UTILITY COST MANAGEMENT LLC	Prof Services, Utility Savings	28
8813852	12/14/2017	Printed		V-2224	VERIZON WIRELESS	Communication Expense, Nov '17	98
8813853	12/14/2017	Printed		W-2439	WESTAMERICA COMMUNICATIONS,INC	1/2 Marathon Banners, CS	48
8813854	12/14/2017	Printed		W-2426	WHITE NELSON DIEHL EVANS LLP	Partial Audit Fee 16/17	3,57
8813855	12/14/2017	Printed		R-1801	WOODRUFF, SPRADLIN & SMART	Professional Svcs, Legal, Oct	36,19
8813856	12/14/2017	Printed		X-2400	XEROX CORPORATION	Copier Lease & Usage, Nov '17	801
8813857	12/21/2017	Printed		A-0365	AT&T - CALNET 3	Traf Sig, PS, Alarm, CC	93
8813858	12/21/2017	Printed		B-0430	BASICS OF SKATEBOARDING	Contract Inst Svcs, Skateboard	52
8813859	12/21/2017	Printed		C-1177	CANON FINANCIAL SERVICES, INC.	Lease - Copier, Gen Gov & CC	78
8813860	12/21/2017	Printed		C-0301	CHANNING, BRUCE	Travel Reimb, ICMA, Dec '17	47
8813861	12/21/2017	Printed		C-0330	CITY TRAFFIC ENGINEERS ASSN	Training,Traffic Commissioners	22
8813862	12/21/2017	Printed		E-0593	EISENBERG, DALE	Contract Inst Svcs., Aikido	1,13
8813863	12/21/2017	Printed		E-0553	ELKINS, CHRISTINA	Contract Inst Svcs., Dance	364
8813864	12/21/2017	Printed		H-0959	HABASH, JOHN	Contract Inst Svcs., Dance	14
8813865	12/21/2017	Printed		M-1552	MARTIN-RUSK, DINA	Contract Instr Svcs, Zumba	98
8813866	12/21/2017	Printed		Z-CS-0079	MCCLELLAN, ANN-MARIE	Refund, Fac Dep, V#2004271.002	50
8813867	12/21/2017	Printed		Z-CD-0084	MOGHADAM, ALIREZA	Refund, Permit Fees, CR# 56864	32
8813868	12/21/2017	Printed		M-1535	MUSIC MOVES ACADEMY, INC.	Contract Inst Svcs, Music	17
8813869	12/21/2017	Printed		Z-CD-0085	RELIABLE ENERGY	Refund, Permit Fees, CR# 57100	1
8813870	12/21/2017	Printed		S-1902	SAN DIEGO GAS & ELECTRIC	ST Lites, TC & Comm Ctr, Nov	29,20
8813871	12/21/2017	Printed		S-2219	SOUTH COUNTY OUTREACH	Refund, Fac Dep, V#2204213.002	50
8813872	12/21/2017	Printed		S-1904	SOUTHERN CALIFORNIA EDISON	ST Lites, TC, Nov '17	66
8813873	12/21/2017	Printed		S-2250	SPARKLETTS	Operating Supplies, CS, Nov 17	10
8813874	12/21/2017	Printed		S-2059	STAPLETON, VIVIAN	Cntr Inst Svcs Early Childhood	18
8813875	12/21/2017	Printed		Z-CS-0080	UNDERGROUND DANCE COMPANY	Refund, Fac Dep, V#2004269.002	50
8813876	12/21/2017	Printed		Z-CD-0086	VARGA, CHRISTOPHER	Refund, Permit Fees, CR# 56188	51
8813877	12/21/2017	Printed		W-2441	WEST COAST MOVEMENT PROJECT,	Contract Inst Svcs., Dance	672
8813878	12/21/2017	Printed		Z-CS-0078	WEST COAST MOVEMENT PROJECT,	Refund, Fac Dep, V#2004265.002	5
8813879	12/28/2017	Printed		Z-CS-0081	ACACIA KNOLLS HOMEOWNERS ASSOC	Refund, Fac Dep, V#2004273.002	250
8813880	12/28/2017	Printed		B-0304	BEE MAN, THE	Bee Removal, Pub Svcs, Dec	150
8813881	12/28/2017	Printed		C-0412	C&D ELECTRIC, INC.	Special Event Lighting, CC,Dec	1,285.75

Attachment: Warrant Register 010918 (1454 : Approval of Warrant Register for Period Ended January 9, 2018)

Check Register Report

Warrant Register 01/09/18

Date: 01/02/2018
Time: 8:48 am
Page:

CITY OF LAGUNA HILLS

BANK: UNION BANK- GENERAL

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amo
UNION BANK- GENERAL Checks							
8813882	12/28/2017	Printed		C-1096	CODE PUBLISHING COMPANY, INC.	Municipal Code Update, Dec '17	91
8813883	12/28/2017	Printed		C-1139	COMPLETE OFFICE OF CALIFORNIA	Computer & Office Supplies	690
8813884	12/28/2017	Printed		D-0461	DATA TICKET, INC.	Process Fee, Park Cit, Nov '17	734
8813885	12/28/2017	Printed		E-0504	EL TORO WATER DISTRICT	Water Usage, Public Svcs, Nov	11,370
8813886	12/28/2017	Printed		F-0604	FEDERAL EXPRESS CORPORATION	Delivery Services, Nov '17	53
8813887	12/28/2017	Printed		C-1190	FINGERPRINT ID (AFIS) LAW ENF.	Fingerprint ID System, Dec	1,129
8813888	12/28/2017	Printed		G-0844	GREEN MART, INC.	Operating Supplies, Pub Svcs	926
8813889	12/28/2017	Printed		H-0829	HARTZOG & CRABILL, INC.	Traf Signal Mgmt Svs, Nov	5,223
8813890	12/28/2017	Printed		H-0955	HR GREEN CALIFORNIA, INC.	Plan Check, Oct '17	11,574
8813891	12/28/2017	Printed		J-1057	JAMEY CLARK, INC.	Park Repairs, Dec '17	509
8813892	12/28/2017	Printed		J-1071	JCTEES.COM CORPORATION	Operating Supplies, PS, Nov	297
8813893	12/28/2017	Printed		Z-CS-0082	LAGUNA HILLS CHAMBER OF	Refund, Fac Dep, V#2004274.002	70
8813894	12/28/2017	Printed		L-1376	LONG BEACH BMW MOTORCYCLES	Motorcycle Maint, PS, Dec '17	588
8813895	12/28/2017	Printed		M-1302	MOULTON NIGUEL WATER DISTRICT	Water Usage, CC, Pub Svcs	5,466
8813896	12/28/2017	Printed		N-1484	NICHOLS CONSULTING	Professional Services, Dec '17	900
8813897	12/28/2017	Printed		O-1525	OCCMA	Meeting Expense, Jan	225
8813898	12/28/2017	Printed		O-1546	OFFICE SOLUTIONS	Office/Operating Supplies	305
8813899	12/28/2017	Printed		C-1003	PARKING VIOLATIONS	Parking Fee Surcharge, Nov '17	1,832
8813900	12/28/2017	Printed		P-1829	PEST OPTIONS, INC.	Rodent Control, PS, Dec	225
8813901	12/28/2017	Printed		R-1934	RENEGADE RACING	Event Mgmt Svcs, 1/2 Marathon	10,000
8813902	12/28/2017	Printed		S-2188	SCANNING SERVICE CORPORATION	Document Imaging Svcs, Dec '17	2,603
8813903	12/28/2017	Printed		S-1904	SOUTHERN CALIFORNIA EDISON	ST Lites, TC, Dec '17	1,518
8813904	12/28/2017	Printed		S-2209	STUDIO TWO BLACK DIAMOND	Printing Services, Dec '17	569
8813905	12/28/2017	Printed		T-2682	THE LIFE TRENDS GROUP,	AED, Management Fee, CC	420
8813906	12/28/2017	Printed		U-2166	UTILITY COST MANAGEMENT LLC	Prof Services, Utility Savings	63
8813907	12/28/2017	Printed		W-2302	WEST PUBLISHING CORPORATION	Subscription, City Clk, Nov	219

Total Checks:	**126**	**Checks Total (excluding void checks):**	**1,153,089**
Total Payments:	**126**	**Bank Total (excluding void checks):**	**1,153,089**
Total Payments:	**126**	**Grand Total (excluding void checks):**	**1,153,089**

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: **January 9, 2018**

TO: **Mayor and Council Members**

FROM: **Melissa Au-Yeung**
Assistant to the City Manager/City Clerk

ISSUE: **Second Reading and Adoption of Proposed Ordinance Amending Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code Relating to Enforcement and Establishment of Parking Penalties**

RECOMMENDATION: That the City Council adopt an Ordinance entitled: "An Ordinance of the City of Laguna Hills, California, Amending Certain Sections of Chapter 11-04 (General Provisions and Administration) and Chapter 11-12 (Stopping, Standing and Parking) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code relating to the Enforcement and Establishment of Parking Penalties."

SUMMARY:

This Ordinance will amend sections of Chapter 11-04 (General Provisions and Administration) and Chapter 11-12 (Stopping, Standing and Parking) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code. Specifically, the proposed Ordinance is a clean-up to the Laguna Hills Municipal Code prepared in conjunction with the recent revisions to the Parking Penalty Schedule update and clarifies that the Orange County Sheriff's Department is responsible for traffic control and enforcement within the City, as well as reaffirms that parking penalty violations are established by Resolution of the City Council.

A copy of the proposed Ordinance and the Staff Report for the introduction of the Ordinance, including attachments, are included as attachments to this report. The City Council introduced the Ordinance by a vote of 5-0. It is in order to adopt the Ordinance.

ATTACHMENTS:

- Ordinance
- December 12, 2017 Introduction to Ordinance Staff Report & Attachments

ORDINANCE NO. 2018-X

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING CERTAIN SECTIONS OF CHAPTER 11-04 (GENERAL PROVISIONS AND ADMINISTRATION) AND CHAPTER 11-12 (STOPPING, STANDING AND PARKING) OF TITLE 11 (VEHICLES AND TRAFFIC) OF THE LAGUNA HILLS MUNICIPAL CODE RELATING TO THE ENFORCEMENT AND ESTABLISHMENT OF PARKING PENALTIES

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 11-04.040 (Traffic Enforcement) of Chapter 11-04, Article II (Traffic Administration) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code pertaining to the enforcement of traffic and parking related laws is hereby amended and restated in its entirety to read as follows:

11-04.040 Traffic enforcement.

The Orange County Sheriff's Department is the law enforcement agency responsible for traffic control and enforcement in the city.

SECTION 2. Section 11-12.010 (Regulations Adopted by City Council) of Chapter 11-12 (Stopping, Standing and Parking) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code pertaining to parking violations and penalties is hereby amended and restated in its entirety to read as follows:

11-12.010 Regulations adopted by City Council.

Except as hereinafter provided, regulations pertaining to the stopping, standing or parking of vehicles shall be established by ordinance or resolution of the City Council. Regulations established by ordinance or resolution, including this Title, pertaining to the stopping, standing or parking of vehicles are deemed infractions subject to penalties as shall be established by resolution of the City Council.

SECTION 3. Section 11-12 (Enforcement) of Chapter 11-12 (Stopping, Standing and Parking) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code pertaining to parking violations and penalties is hereby amended and restated in its entirety to read as follows:

11-12.100 Enforcement.

A. In the event a vehicle is parked or left standing upon a street or alley in violation of Sections 11-12.070, 11-12.080, and/or 11-12.090 and is not moved as required by this chapter, any law enforcement member may remove the vehicle from the street in the manner and subject to the requirements of California Vehicle Code Section 22650 et seq.

B. In addition to the grounds for removal specified in the California Vehicle Code, and pursuant to California Vehicle Code Section 22651(n), any vehicle parked or left standing on any property owned or operated by the city contrary to the directions or provisions of signs erected or posted pursuant to Section 11-12.095 may be immediately removed by any law enforcement officer or regularly employed and salaried employee of the city who is engaged in directing traffic or enforcing parking laws and regulations of the city. Vehicles removed pursuant to this subsection shall be removed and stored either to: (1) the nearest garage; (2) a garage designated or maintained by the city or the Orange County Sheriff's Department; or (3) other place of safety as approved in writing by the City Manager, or his or her designee, or the Orange County Sheriff's Department. The City Manager or the Orange County Sheriff's Department is authorized to adopt such written regulations and procedures as necessary to implement the removal of vehicles pursuant to this subsection and to enter into such agreements with tow services as may be necessary to implement the removal remedies of this subsection.

SECTION 4. If any section, subsection, subdivision, sentence, clause, phrase, or a portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this 12th day of December 2017.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2018-X was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 12th day of December 2017, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the 9th day of January 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

MELISSA AU-YEUNG, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. 2018-X, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING CERTAIN SECTIONS OF CHAPTER 11-04 (GENERAL PROVISIONS AND ADMINISTRATION) AND CHAPTER 11-12 (STOPPING, STANDING AND PARKING) OF TITLE 11 (VEHICLES AND TRAFFIC) OF THE LAGUNA HILLS MUNICIPAL CODE RELATING TO THE ENFORCEMENT AND ESTABLISHMENT OF PARKING PENALTIES

on the 22nd day of December 2017, was published in summary in the Saddleback Valley News, and on the 19th day of January 2018, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the 15th day of December 2017, and the 12th day of January 2018, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
La Paz Center

MELISSA AU-YEUNG, CITY CLERK
Laguna Hills, California

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: December 12, 2017

TO: Mayor and Council Members

FROM: Roland Chacon
Police Chief

ISSUE: Proposed Ordinance Amending Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code Relating to Enforcement and Establishment of Parking Penalties

RECOMMENDATION: That the City Council introduce for first reading, read by title only, and waive further reading, an Ordinance entitled: "An Ordinance of the City of Laguna Hills, California, Amending Certain Sections of Chapter 11-04 (General Provisions and Administration) and Chapter 11-12 (Stopping, Standing and Parking) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code relating to the Enforcement and Establishment of Parking Penalties."

SUMMARY:

The City Council is concurrently considering an update to the City's Parking Penalty Schedule proposed by the Police Services Department. To prepare the revisions to the Parking Penalty Schedule, staff reviewed the existing provisions of Title 11 of the Laguna Hills Municipal Code. During this review, staff identified certain amendments which are necessary to facilitate the enforcement and establishment of parking penalties within the City. The recommended amendment to Section 11-04.040 clarifies that the Orange County Sheriff's Department, under contract as the Police Services Department, is responsible for traffic control and enforcement within the City. The restatement of Sections 11-12.010 and 11-12.100 reaffirms that parking penalty violations are established by Resolution of the City Council.

ATTACHMENTS:

- Proposed Ordinance

ORDINANCE NO. 2017-___

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING CERTAIN SECTIONS OF CHAPTER 11-04 (GENERAL PROVISIONS AND ADMINISTRATION) AND CHAPTER 11-12 (STOPPING, STANDING AND PARKING) OF TITLE 11 (VEHICLES AND TRAFFIC) OF THE LAGUNA HILLS MUNICIPAL CODE RELATING TO THE ENFORCEMENT AND ESTABLISHMENT OF PARKING PENALTIES

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 11-04.040 (Traffic Enforcement) of Chapter 11-04, Article II (Traffic Administration) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code pertaining to the enforcement of traffic and parking related laws is hereby amended and restated in its entirety to read as follows:

11-04.040 Traffic enforcement.

The Orange County Sheriff's Department is the law enforcement agency responsible for traffic control and enforcement in the city.

SECTION 2. Section 11-12.010 (Regulations Adopted by City Council) of Chapter 11-12 (Stopping, Standing and Parking) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code pertaining to parking violations and penalties is hereby amended and restated in its entirety to read as follows:

11-12.010 Regulations adopted by City Council.

Except as hereinafter provided, regulations pertaining to the stopping, standing or parking of vehicles shall be established by ordinance or resolution of the City Council. Regulations established by ordinance or resolution, including this Title, pertaining to the stopping, standing or parking of vehicles are deemed infractions subject to penalties as shall be established by resolution of the City Council.

SECTION 3. Section 11-12 (Enforcement) of Chapter 11-12 (Stopping, Standing and Parking) of Title 11 (Vehicles and Traffic) of the Laguna Hills Municipal Code pertaining to parking violations and penalties is hereby amended and restated in its entirety to read as follows:

11-12.100 Enforcement.

A. In the event a vehicle is parked or left standing upon a street or alley in violation of Sections 11-12.070, 11-12.080, and/or 11-12.090 and is not moved as required by this chapter, any law enforcement member may remove the vehicle from the street in the manner and subject to the requirements of California Vehicle Code Section 22650 et seq.

B. In addition to the grounds for removal specified in the California Vehicle Code, and pursuant to California Vehicle Code Section 22651(n), any vehicle parked or left standing on any property owned or operated by the city contrary to the directions or provisions of signs erected or posted pursuant to Section 11-12.095 may be immediately removed by any law enforcement officer or regularly employed and salaried employee of the city who is engaged in directing traffic or enforcing parking laws and regulations of the city. Vehicles removed pursuant to this subsection shall be removed and stored either to: (1) the nearest garage; (2) a garage designated or maintained by the city or the Orange County Sheriff's Department; or (3) other place of safety as approved in writing by the City Manager, or his or her designee, or the Orange County Sheriff's Department. The City Manager or the Orange County Sheriff's Department is authorized to adopt such written regulations and procedures as necessary to implement the removal of vehicles pursuant to this subsection and to enter into such agreements with tow services as may be necessary to implement the removal remedies of this subsection.

SECTION 4. If any section, subsection, subdivision, sentence, clause, phrase, or a portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this 12th day of December 2017.

____
, MAYOR

ATTEST:

____
MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2017-__ was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 12th day of December 2017, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the _____ day of ________ 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

MELISSA AU-YEUNG, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. 2017-__, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING CERTAIN SECTIONS OF CHAPTER 11-04 (GENERAL PROVISIONS AND ADMINISTRATION) AND CHAPTER 11-12 (STOPPING, STANDING AND PARKING) OF TITLE 11 (VEHICLES AND TRAFFIC) OF THE LAGUNA HILLS MUNICIPAL CODE RELATING TO THE ENFORCEMENT AND ESTABLISHMENT OF PARKING PENALTIES

on the ____ day of __________ 2017, was published in summary in the Saddleback Valley News, and on the ____ day of ________ 2018, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the ____ day of ________ 2017, and the ____ day of _________ 2018, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
La Paz Center

____
MELISSA AU-YEUNG, CITY CLERK
Laguna Hills, California

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: **January 9, 2018**

TO: **Mayor and Council Members**

FROM: **Melissa Au-Yeung**
Assistant to the City Manager/City Clerk

ISSUE: **First Amendment to Lease with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California**

RECOMMENDATION: That the City Council approve the First Amendment to Lease with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California, and authorize the City Manager to execute the First Amendment to Lease.

SUMMARY:

At the December 9, 2014, City Council meeting, the City Council approved a three-year lease with Dayle McIntosh Center for the Disabled, Inc., ("Tenant") for 24031 El Toro Road, Suite 320. The three-year lease term commenced on December 21, 2014, and expired on December 20, 2017. During staff's negotiations for a lease renewal with the Tenant, the Tenant expressed interest in relocating to a larger space. Due to upcoming vacancies and possible relocations of other tenants, Tenant requested a First Amendment to Lease with a month-to-month term for six months ending on June 20, 2018. This extended term will allow staff and Tenant to better assess whether a larger space may be available to Tenant for relocation. As part of this Amendment, the base rent will be increased from $2.15 to $2.20 per square foot.

Effective Date: December 21, 2017

Term: Month-to-month for six (6) months

Rentable Square Feet: 1,218

Rate: $2.20 sq. ft.

Total Rent Payments: $16,078

The City Attorney has reviewed and approved the First Amendment to Lease and staff is recommending approval.

FISCAL IMPACT:

The First Amendment to Lease will result in Total Rent Payments of $16,078 and will require no additional upfront capital.

ATTACHMENTS:

- First Amendment to Lease
- Lease

First AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE is made and entered into as of December 20, 2017, by and between The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California ("Lessor") and Dayle McIntosh Center for the Disabled Inc., a California corporation ("Lessee").

WHEREAS, on or about December 9, 2014 a Lease was entered into by and between Lessor and Lessee (the "Lease") relating to certain real property commonly known as: 24031 El Toro Road, Suite 320 (the "Premises"), and

WHEREAS, Lessor and Lessee ☐ have ☑ have not previously amended said Lease, and

WHEREAS, the Lessor and Lessee now desire to amend said Lease,

NOW, THEREFORE, for payment of TEN DOLLARS and other good and valuable consideration to Lessor, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree to make the following additions and modifications to the Lease:

☑ TERM: The Expiration Date is hereby ☐ advanced ☑ extended to June 20, 2018.

☐ AGREED USE: The Agreed Use is hereby modified to: ______

☑ BASE RENT ADJUSTMENT: Monthly Base Rent shall be as follows: $2,679.60 ($2.20 per square foot per month), effective and commencing on December 21, 2017.

☑ OTHER: The extended term authorized herein shall be month to month for six (6) months and ending on June 20, 2018.

This Agreement shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against any one party.

All other terms and conditions of ~~this~~ the Lease shall remain unchanged and shall continue in full force and effect except as specifically amended herein.

EXECUTED as of the day and year first above written.

By Lessor:
The City of Laguna Hills

By: ______
Name Printed: Bruce E. Channing
Title: City Manager

By: ______
Name Printed: ______
Title: ______

By Lessee:
Dayle McIntosh Center for the Disabled Inc., a California corporation

By: ______
Name Printed: Marcy Lovett
Title: President

By: ______
Name Printed: Paula Margeson
Title: Executive Director

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

AIR COMMERCIAL REAL ESTATE ASSOCIATION

STANDARD MULTI-TENANT OFFICE LEASE - GROSS
AIR COMMERCIAL REAL ESTATE ASSOCIATION

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("**Lease**"), dated for reference purposes only November 25, 2014, is made by and between The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California ("**Lessor**") and Dayle McIntosh Center for the Disabled Inc., a California corporation ("**Lessee**"), (collectively the "**Parties**", or individually a "**Party**").

1.2(a) **Premises:** That certain portion of the Project (as defined below), known as Suite Numbers(s) 320, third floor(s), consisting of approximately 1,218 rentable square feet and approximately 1,018 useable square feet("**Premises**"). The Premises are located at: 24031 El Toro Road, in the City of Laguna Hills, County of Orange, State of California, with zip code 92654. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or the utility raceways of the building containing the Premises ("**Building**") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "**Project.**" The Project consists of approximately 51,943 rentable square feet. (See also Paragraph 2)

1.2(b) **Parking:** 4/1000 unreserved and N/A reserved vehicle parking spaces at a monthly cost of $N/A per unreserved space and $N/A per reserved space. (See Paragraph 2.6)

1.3 **Term:** Three years and 0 months ("**Original Term**") commencing December 21, 2014 ("**Commencement Date**") and ending December 20, 2017 ("**Expiration Date**"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing N/A ("**Early Possession Date**"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** $2,436.00 per month ("**Base Rent**)", payable on the First day of each month commencing December 21, 2014. (See also Paragraph 4below)

☑ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 4.4 (See Addendum Paragraph 1)

1.6 **Lessee's Share of Operating Expense Increase:** 2.34 percent (2.34%) ("**Lessee's Share**"). In the event that that size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 **Base Rent and Other Monies Paid Upon Execution:**

(a) **Base Rent:** $2,436.00 for the period December 21, 2014-January 20, 2015.

(b) **Security Deposit:** $1,294.80 on file.Add $1,124 ("**Security Deposit**"). (See also Paragraph 5)

(c) **Parking:** $N/A for the period N/A.

(d) **Other:** $N/A for N/A.

(e) **Total Due Upon Execution of this Lease:** $3,560.00.

1.8 **Agreed Use:** General Office Use. (See also Paragraph 6)

1.9 **Base Year; Insuring Party.** The Base Year is 2014. Lessor is the "**Insuring Party**". (See also Paragraphs 4.2 and 8)

1.10 **Real Estate Brokers:** (See also Paragraph 15 and 25)

(a) **Representation:** The following real estate brokers (the "**Brokers**") and brokerage relationships exist in this transaction (check applicable boxes):

☑ Essex Realty Management Inc. represents Lessor exclusively ("**Lessor's Broker**");

☐ N/A represents Lessee exclusively ("**Lessee's Broker**"); or

☐ N/A represents both Lessor and Lessee ("**Dual Agency**").

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers for the brokerage services rendered by the Brokers the fee agreed to in ~~the attached~~ a separate written agreement ~~or if no such agreement is attached, the sum of ____ or ____% of the total Base Rent payable for the Original Term, the sum of ____ or ____ of the total Base Rent payable during any period of time that the Lessee occupies the Premises subsequent to the Original Term, and/or the sum of ____ or ____% of the purchase price in the event that the Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises.~~

1.11 **Guarantor.** The obligations of the Lessee under this Lease shall be guaranteed by N/A ("**Guarantor**"). (See also Paragraph 37)

1.12 **Business Hours for the Building:** 7:00 a.m. to 6:00 p.m., Mondays through Fridays (except Building Holidays) and

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8:00 a.m. to 2:00 p.m. on Saturdays (except Building Holidays). "**Building Holidays**" shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and N/A .

1.13 **Lessor Supplied Services.** Notwithstanding the provisions of Paragraph 11.1, Lessor is NOT obligated to provide the following within the Premises:

☐ Janitorial services

☐ Electricity

☐ Other (specify): N/A

1.14 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

☑ an Addendum consisting of Paragraphs 1 through 6 ;

☑ a plot plan depicting the Premises; Exhibit "A"

☑ a current set of the Rules and Regulations; Exhibit "B"

☑ a Work Letter; / Requirements for improvements or alterations by Lessee (Exhibit "D")

☐ a janitorial schedule;

☑ other (specify): Exhibit "C" Waiver and Release

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **Note: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee in a clean condition on the Commencement Date or the Early Possession Date, whichever first occurs ("**Start Date**"), and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), and all other items which the Lessor is obligated to construct pursuant to the Work Letter attached hereto, if any, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law.

2.3 **Compliance.** Lessor warrants to the best of its knowledge that the improvements comprising the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") in effect on the Start Date. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the zoning and other Applicable Requirements are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Premises ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to nonvoluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) Lessee has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date, Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** So long as Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from time to time for monthly parking as set by Lessor and/or its licensee.

(a) If Lessee commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

(b) The monthly rent per parking space specified in Paragraph 1.2(b) is subject to change upon 30 days prior written notice to Lessee. The rent for the parking is payable one month in advance prior to the first day of each calendar month.

2.7 **Common Areas - Definition.** The term "**Common Areas**" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Premises that are provided and designated by the Lessor from time to time for the general nonexclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including, but not limited to, common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

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2.8 **Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the nonexclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to adopt, modify, amend and enforce reasonable rules and regulations ("**Rules and Regulations**") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. The Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the noncompliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of the lobbies, windows, stairways, air shafts, elevators, escalators, restrooms, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of the Operating Expense Increase) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance ~~(Paragraph 8.5)~~ Paragraph 8.2 &8.3 of this Lease (See, Addendum Paragraph 3). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1. **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**").

4.2 **Operating Expense Increase.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share of the amount by which all Operating Expenses for each Comparison Year exceeds the amount of all Operating Expenses for the Base Year, such excess being hereinafter referred to as the "**Operating Expense Increase**", in accordance with the following provisions:

(a) "**Base Year**" is as specified in Paragraph 1.9.

(b) "**Comparison Year**" is defined as each calendar year during the term of this Lease subsequent to the Base Year; provided, however, Lessee shall have no obligation to pay a share of the Operating Expense Increase applicable to the first 12 months of the Lease Term (other than such as are mandated by a governmental authority, as to which government mandated expenses Lessee shall pay Lessee's Share, notwithstanding they occur during the first twelve (12) months). Lessee's Share of the Operating Expense Increase for the first and last Comparison Years of the Lease Term shall be prorated according to that portion of such Comparison Year as to which Lessee is responsible for a share of such increase.

(c) The following costs relating to the ownership and operation of the Project, calculated as if the Project was at least 95% occupied, are defined as "**Operating Expenses**" :

(i) Costs relating to the operation, repair, and maintenance in neat, clean, safe, good order and condition, but not the replacement (see subparagraph (g)), of the following:

(aa) The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area lighting facilities, building exteriors and roofs, fences and gates;

(bb) All heating, air conditioning, plumbing, electrical systems, life safety equipment, communication systems and other equipment used in common by, or for the benefit of, tenants or occupants of the Project, including elevators and escalators, tenant directories, fire detection systems including sprinkler system maintenance and repair.

(cc) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.

(ii) The cost of trash disposal, janitorial and security services, pest control services, and the costs of any environmental inspections;

(iii) The cost of any other service to be provided by Lessor that is elsewhere in this Lease stated to be an "Operating Expense";

(iv) The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 and any deductible portion of an insured loss concerning the Building or the Common Areas;

(v) The amount of the Real Property Taxes payable by Lessor pursuant to paragraph 10;

(vi) The cost of water, sewer, gas, electricity, and other publicly mandated services not separately metered;

(vii) Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Project and accounting and management fees attributable to the operation of the Project;

(viii) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month;

(ix) The cost to replace equipment or improvements that have a useful life for accounting purposes of 5 years or less.

(x) Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.

(d) Any item of Operating Expense that is specifically attributable to the Premises, the Building or to any other building in the

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Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Premises, Building, or other building. However, any such item that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(e) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(c) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(f) Lessee's Share of Operating Expense Increase is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the Operating Expense Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such Year exceed Lessee's Share, Lessee shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such Year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of said statement. Lessor and Lessee shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last Comparison Year for which Lessee is responsible as to Operating Expense Increases, notwithstanding that the Lease term may have terminated before the end of such Comparison Year.

(g) Operating Expenses shall not include the costs of replacement for equipment or capital components such as the roof, foundations, exterior walls or a Common Area capital improvement, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(h) Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or by insurance proceeds.

4.3 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of ~~$25~~ 75 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **Use.** (See Addendum "Paragraph 2".)

6.1 ~~Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements of the Building, will not adversely affect the mechanical, electrical, HVAC, and other systems of the Building, and/or will not affect the exterior appearance of the Building. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.~~

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use such as ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or $100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or $100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's "**Lender**" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1e) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of written request therefor.

7. **Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.**

7.1 **Lessee's Obligations.** Notwithstanding Lessor's obligation to keep the Premises in good condition and repair, Lessee shall be responsible for payment of the cost thereof to Lessor as additional rent for that portion of the cost of any maintenance and repair of the Premises, or any equipment (wherever located) that serves only Lessee or the Premises, to the extent such cost is attributable to abuse or misuse. In addition, Lessee rather than the Lessor shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any similar improvements within the Premises. Lessor may, at its option, upon reasonable notice, elect to have Lessee perform any particular such maintenance or repairs the cost of which is otherwise Lessee's responsibility hereunder.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants, and the Common Areas. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term "**Utility Installations**" refers to all floor and window coverings, air lines, vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, and plumbing in or on the Premises. The term "**Trade Fixtures**" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term " **Alterations**" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee Owned Alterations and/or Utility Installations**" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof, ceilings, floors or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed $2,000. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with asbuilt plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor. In addition to, and without limiting the other requirements of this Paragraph 7.3 all utilities, installations, and alterations made by Lessee shall also be subject to the provisions of Exhibit "D" attached to this Lease.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

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(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. (See Addendum Paragraph 3.) **Insurance; Indemnity.**

~~8.1 **Insurance Premiums.** The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 are included as Operating Expenses (see paragraph 4.2 (c)(iv)). Said costs shall include increases in the premiums resulting from additional coverage related to requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. Said costs shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. If the Project was not insured for the entirety of the Base Year, then the base premium shall be the lowest annual premium reasonably obtainable for the required insurance as of the Start Date, assuming the most nominal use possible of the Building and/or Project. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of $2,000,000 procured under Paragraph 8.2(b).~~

~~8.2 **Liability Insurance.**~~

~~(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an annual aggregate of not less than $2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.~~

~~(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.~~

~~8.3 **Property Insurance - Building, Improvements and Rental Value.**~~

~~(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Building and/or Project. The amount of such insurance shall be equal to the full insurable replacement cost of the Building and/or Project, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed $5,000 per occurrence.~~

~~(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("**Rental Value insurance**"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.~~

~~(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.~~

~~(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.~~

~~8.4 **Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.**~~

~~(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.~~

~~(b) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.~~

~~(c) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.~~

~~(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.~~

~~8.5 **Insurance Policies.** Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 10 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.~~

~~8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.~~

8.7 **Indemnity.** Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage,

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obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. **Damage or Destruction.**

9.1 **Definitions.**

(a) "**Premises Partial Damage**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) "**Premises Total Destruction**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) "**Insured Loss**" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraphs 8.1 &8.2 of this Lease (See Addendum Paragraph 3) ~~Paragraph 8.3(a)~~, irrespective of any deductible amounts or coverage limits involved.

(d) "**Replacement Cost**" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "**Hazardous Substance Condition**" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is $5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.3 (e) of this Lease (see Addendum Paragraph 3) ~~Paragraph 8.6~~.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. **Real Property Taxes.**

10.1 **Definitions.** As used herein, the term "**Real Property Taxes**" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. **"Real Property Taxes"** shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements.** Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities and Services.**

11.1 **Services Provided by Lessor.** Lessor shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use in connection with an office, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures. Lessor shall also provide janitorial services to the Premises and Common Areas 5 times per week, excluding Building Holidays, or pursuant to the attached janitorial schedule, if any. Lessor shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises.

11.2 **Services Exclusive to Lessee.** Lessee shall pay for all water, gas, light, power, telephone and other utilities and services specially or exclusively supplied and/or metered exclusively to the Premises or to Lessee, together with any taxes thereon. If a service is deleted by Paragraph 1.13 and such service is not separately metered to the Premises, Lessee shall pay at Lessor's option, either Lessee's Share or a reasonable proportion to be determined by Lessor of all charges for such jointly metered service.

11.3 **Hours of Service.** Said services and utilities shall be provided during times set forth in Paragraph 1.12. Utilities and services required at other times shall be subject to advance request and reimbursement by Lessee to Lessor of the cost thereof.

11.4 **Excess Usage by Lessee.** Lessee shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting or power, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security and trash services, over standard office usage for the Project. Lessor shall require Lessee to reimburse Lessor for any excess expenses or costs that may arise out of a breach of this subparagraph by Lessee. Lessor may, in its sole discretion, install at Lessee's expense supplemental equipment and/or separate metering applicable to Lessee's excess usage or loading.

11.5 **Interruptions.** There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "**assign or assignment**") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. **"Net Worth of Lessee"** shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i e. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. **Default; Breach; Remedies.**

13.1 **Default; Breach.** A "**Default**" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "**Breach**" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraphs 8.1 & 8.2 of this Lease (See Addendum Paragraph 3) ~~**Paragraph 8.3**~~ is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safety sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "**debtor**" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies..** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 **Inducement Recapture.** Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 **Late Charges.** Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and

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accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or $100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor.** (see Addendum)

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

~~(b) Performance by Lessee on Behalf of Lessor. In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.~~

14. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the rentable floor area of the Premises, or more than 25% of Lessee's Reserved Parking Spaces, if any, are taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. **Brokerage Fees.**

~~15.1 Additional Commission. In addition to the payments owed pursuant to Paragraph 1.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.~~

~~15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.~~

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. **Estoppel Certificates.**

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published by the AIRCommercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor or its partners, members, directors, officers or shareholders, and Lessee shall look to the Project, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility

of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.**

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. **Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lesser or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advise is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **Binding Effect; Choice of Law.** This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance.**

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Devise to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach ($200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** If Lessee is granted any Option, as defined below, then the following provisions shall apply.

39.1 **Definition.** "**Option**" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties. In the event, however, that Lessor should elect to provide security services, then the cost thereof shall be an Operating Expense.

41. **Reservations.**

(a) Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessor may also: change the name, address or title of the Building or Project upon at least 90 days prior written notice; provide and install, at Lessee's expense, Building standard graphics on the door of the Premises and such portions of the Common Areas as Lessor shall reasonably deem appropriate; grant to any lessee the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and to place such signs, notices or displays as Lessor reasonably deems necessary or advisable upon the roof, exterior of the Building or the Project or on signs in the Common Areas. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obstruction of Lessee's view, air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.

(b) Lessor also reserves the right to move Lessee to other space of comparable size in the Building or Project. Lessor must provide at least 45 days prior written notice of such move, and the new space must contain improvements of comparable quality to those contained within the Premises. Lessor shall pay the reasonable out of pocket costs that Lessee incurs with regard to such relocation, including the expenses of moving and necessary stationary revision costs. In no event, however, shall Lessor be required to pay an amount in excess of two months Base Rent. Lessee may not be relocated more than once during the term of this Lease.

(c) Lessee shall not: (i) use a representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Lessee's business; or (ii) suffer or permit anyone, except in emergency, to go upon the roof of the Building.

42. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. **Authority; Multiple Parties; Execution**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable nonmonetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. **Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

48. **Arbitration of Disputes.** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☑ is not attached to this Lease.

49. **Accessibility; Americans with Disabilities Act.**

(a) The Premises: ☐ have not undergone an inspection by a Certified Access Specialist (CASp). ☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. ☑ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

(b) Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING AND SIZE OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: 24031 El Toro Road, Suite 100	Executed at: ~~[signature]~~ (AD 501 N Brookhurst STE 102, Anaheim CA 92801
On:	On: 12-1-14
By LESSOR:	**By LESSEE:**
The City of Laguna Hills	Dayle McIntosh Center for the Disabled Inc., a California corporation
By: [signature]	By: [signature]
Name Printed: Bruce E. Channing	Name Printed: Richard Devylder
Title: City Manager	Title: Board President
By: [signature] Peggy J. Johns	By:
Name Printed: Peggy Johns	Name Printed: Michael Ryan
Title: City Clerk	Title: Board Treasurer
Address: 24031 El Toro Road, Suite 100, Laguna Hills, CA 92654	Address:
Telephone:(___)	Telephone:(___)
Facsimile:(___)	Facsimile:(___)
Email:	Email:
Email:	Email:
Federal ID No.	Federal ID No.

[initials] INITIALS

RD INITIALS

FORM

LESSOR'S BROKER:

Essex Realty Management, Inc.

Attn: Sandi Montez
Address: 111 Corporate Drive, Suite 110
Ladera Ranch, CA 92694

Telephone:(949) 218-3801
Facsimile:(___)
Email:
Broker/Agent DRE License #: 00965485

LESSEE'S BROKER:

Attn:
Address:

Telephone:(___)
Facsimile:(___)
Email:
Broker/Agent DRE License #:

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

Attachment: Lease (1456 : First Amendment to Civic Center Lease)

INITIALS

INITIALS

ADDENDUM TO LEASE

THIS ADDENDUM TO LEASE (this "Addendum") shall constitute part of that certain STANDARD MULTI-TENANT OFFICE LEASE – GROSS ("Lease"), dated as of November 26, 2014, between The City of Laguna Hills ("Lessor"), and Dayle McIntosh Center ("Lessee"). The terms of this Addendum shall be incorporated into the Lease for all purposes. In the event of any conflict between the terms of the Lease and the terms of this Addendum, the terms of this Addendum shall control.

1. Base Rent Schedule. Section 4.4 is hereby added to the Lease to read as follows:

4.4 Base Rent Schedule

4.4.1 The monthly Base Rent payable as defined in paragraph 4.1 and as set forth in paragraph 1.7 (a) of the Lease shall be adjusted as set forth below:

Months		Rent Per Month
12/21/2014	12/20/2015	$2,436.00
12/21/2015	12/20/2016	$2,533.44
12/21/2016	12/20/2017	$2,634.78

2. Use. Section 6.1 of the Lease is hereby deleted in its entirety and replaced by the following:

"6.1. Use. The Premises shall be used only for the Agreed Use and for no other use. Lessee's use of the Premises shall be in compliance with and subject to all Applicable Requirements relating to or affecting the Project, the Premises or the Building or the use or operation thereof, whether now existing or hereafter enacted, including, without limitation, the Americans with Disabilities Act of 1990, 42 USC 12111 et seq. (the "ADA") as the same may be amended from time to time, any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of courts, ordinances, rules, codes, orders, decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future which are or become applicable to Lessee, the Premises, the Building, or the Project ("Environmental Laws"), any transportation or traffic management plan in satisfaction of any requirement imposed on the Project by a governmental agency with jurisdiction over the Project, and any CC&Rs or any supplement thereto recorded in any official or public records with respect to the Project or any portion thereof (collectively, "Applicable Laws"). Lessee shall be responsible for obtaining any permit, business license, or other permits or licenses required by any governmental agency permitting Lessee's use or occupancy of the Premises. Lessee shall not commit waste, overload the floors or structure of the Building, subject the Premises, the Building, the Common Area or the Project to any use which would damage the same or increase the risk of loss or violate any insurance coverage, permit any unreasonable odors, smoke, dust, gas, substances, noise or vibrations to emanate from the Premises, take any action which would constitute a nuisance or would disturb, obstruct or endanger any other tenants, take any action which would abrogate any warranties, or use or allow the Premises to be used for any unlawful purpose. Lessor shall not be responsible for non-compliance by any other tenant or occupant of the Project with, or Lessor's failure to enforce, any of the rules or regulations or CC&Rs or any other terms or provisions of such tenant's or occupant's lease. Lessee shall promptly comply with the reasonable requirements of any board of fire insurance underwriters or other similar body now or hereafter constituted. Lessee shall not do any act which shall in any way encumber the title of Lessor in and to the Premises, the Building or the Project.

3. Insurance; Indemnity. Sections 8.1 through 8.6 of the Lease are hereby deleted in their entirety and replaced by the following:

"8.1 Lessor's Insurance. Lessor shall maintain insurance through individual or blanket policies insuring the Building against fire and extended coverage (including, if Lessor elects, "all risk" coverage, earthquake/volcanic action, flood and/or surface water insurance) for the full replacement cost of the Building, with deductibles and the form and endorsements of such coverage as selected by Lessor, together with rental abatement insurance against loss of Rent in an amount equal to the amount of Rent for a period of at least twelve (12) months commencing on the date of loss. Lessor may also carry such other insurance as Lessor may deem prudent or advisable, including, without limitation, liability insurance in such amounts and on such terms as Lessor shall determine. Lessee shall pay to Lessor, as a portion of the Operating Expenses, the costs of the insurance coverages described herein, including, without limitation, Lessor's cost of any self-insurance deductible or retention.

8.2 Lessee's Insurance. Lessee shall, at Lessee's expense, obtain and keep in force at all times the following insurance:

(a) Commercial General Liability Insurance (Occurrence Form). A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) aggregate per location if Lessee has multiple locations, providing coverage for, among other things, blanket contractual liability, premises, products/completed operations with an "Additional Insured Managers or Lessors of Premises Endorsement" and personal and advertising injury coverage, with deletion of the exclusion for explosion, collapse or underground hazard, if applicable, and, if necessary, Lessee shall provide for restoration of the aggregate limit, and provided that the policy shall not contain any intra insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under the Lease as an "insured contract" for the performance of Lessee's indemnity obligations under the Lease;

(b) Automobile Liability Insurance. Comprehensive automobile liability insurance having a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence and insuring Lessee against liability for claims arising out of ownership, maintenance, or use of any owned, hired or non-owned automobiles;

(c) Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance having limits not less than those required by state statute and federal statute, if applicable, and covering all persons employed by Lessee in the conduct of its operations on the Premises (including the all states endorsement and, if applicable, the volunteers endorsement), together with employer's liability insurance coverage in the amount of at least Five Hundred Thousand ($500,000);

(d) Property Insurance. "Special Form" property insurance including boiler and machinery comprehensive form, if applicable, covering damage to or loss of any of Lessee's personal property, fixtures, equipment and alterations, including electronic data processing equipment (collectively "Lessee's Property") (and coverage for the full replacement cost thereof including business interruption of the Lessee), together with, if the property of Lessee's invitees is to be kept in the Premises, warehouseman's legal liability or bailee customers insurance for the full replacement cost of the property belonging to invitees and located on the Premises.

(e) Business Interruption. Loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all peril commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

8.3 General.

(a) Insurance Companies. Insurance required to be maintained by Lessee shall be written by companies licensed to do business in the state in which the Premises are located and having a "General Policyholders Rating" of at least "A-" (or such higher rating as may be required by a lender having a lien on the Premises) and a financial rating of no less than VII as set forth in the most current issue of "Best's Insurance Guide."

(b) Certificates of Insurance. Lessee shall deliver to Lessor certificates of insurance and endorsements for all insurance required to be maintained by Lessee in the form acceptable to Lessor no later than seven (7) days prior to the date of possession of the Premises. Lessee shall, at least ten (10) days prior to expiration of the policy, furnish Lessor with certificates of renewal or "binders" thereof. If Lessee fails to maintain any insurance required in the Lease, Lessee shall be liable for all losses and costs suffered or incurred by Lessor (including litigation costs and attorneys' fees and expenses) resulting from said failure.

(c) Additional Insureds. Lessor, Lessor's lender, and any property management company of Lessor for the Premises shall be named as additional insureds (utilizing ISO Form CG2010 (11/85) or its equivalent) under all of the policies required by section 8.2(a). The policies required under Section 8.2(a) shall provide for severability of interest.

(d) Primary Coverage. All insurance to be maintained by Lessee shall, except for workers' compensation and employer's liability insurance, be primary, without right of contribution from insurance of Lessor. Any umbrella liability policy or excess liability policy (which shall be in "following form") shall provide that if the underlying aggregate is exhausted, the excess coverage will drop down as primary insurance. The limits of insurance maintained by Lessee shall not limit Lessee's liability under the Lease.

(e) Waiver of Subrogation. Notwithstanding any other provisions of the Lease, Lessee and Lessor each waive all rights to recover damages against the other, for loss or damage caused by fire and other perils and any other risk to the extent covered by policies of insurance or required to be covered by policies of insurance which are required to be carried in accordance with this Lease. This provision is intended to waive fully, any rights and/or claims which might give rise to a right of subrogation in favor of any insurance carrier. The coverages obtained by each of Lessee and Lessor pursuant to the Lease shall include, without limitation, a waiver of subrogation endorsement attached to the certificate of insurance.

(f) Notification of Incidents. Lessee shall notify Lessor within twenty-four (24) hours after the occurrence of any accidents or incidents in the Premises, the Building, Common Areas or the Project which could give rise to a claim under any of the insurance policies required under this Section 8.

4. Breach by Lessor; Performance by Lessee on Behalf of Lessor. Section 13.6(b) of the Lease is hereby deleted in its entirety and replaced with the following:

"13.6(b). Lessee's Remedies. Lessee and all successors and assigns covenant and agree that, in the event of any actual or alleged default by Lessor, Lessee's sole and exclusive remedy shall be either to seek either specific performance or monetary damages, provided that Lessor shall not be liable for loss of business profits or consequential damages, and provided further, that any recourse for monetary damages by Lessee against Lessor shall be limited solely and exclusively to an amount which is equal to the amounts paid by Lessee to Lessor under the Lease (and Lessee hereby expressly waives and releases personal liability of Lessor in excess of such amount on behalf of itself and all persons claiming by through, or under the lease) Further, in no event shall the obligations of Lessor under the Lease constitute the personal obligations of Lessor or its partners, members, directors, officers, elected officials or shareholders, and Lessee shall have no right to seek recourse against Lessor's partners, members, directors, officers, elected officials or shareholders, or any of their personal assets for the satisfaction of any liability of Lessor with respect to the Lease. Lessee expressly waives all remedies except those specifically set forth in the Lease, including, without limitation, any right of offset or abatement except as specifically set forth in the Lease, any right to terminate the Lease under Civil Code Sections 1932(2), 1933(4) and 1941 or any other successor statute, or any statutory, legal or equitable self-help remedy including, without limitation, Civil Code Section 1942 or any other current or future law. Nothing contained in the Lease shall entitle Lessee to terminate the Lease as a result of Lessor's default nor excuse Lessee from paying Rent or Additional Rent due hereunder."

5. Estoppel Certificates. All references in the Lease to "Estoppel Certificate", including, but not limited to the definition in Section 16(a), shall refer to Lessor's standard form certificate.

6. Recordation. Lessee shall not have any right to cause the Lease or any short form or memorandum thereof to be recorded.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of the Lease.

"Lessor"

THE CITY OF LAGUNA HILLS

By: Bruce E. Channing

By:____________________
Its: City Manager

By: Peggy Johns

By:____________________
Its: City Clerk

APPROVED AS TO FORM:

By:____________________
City Attorney

"Lessee"
Dayle McIntosh Center for the Disabled Inc., a
California corporation

By: Richard Devylder

Its: Board President

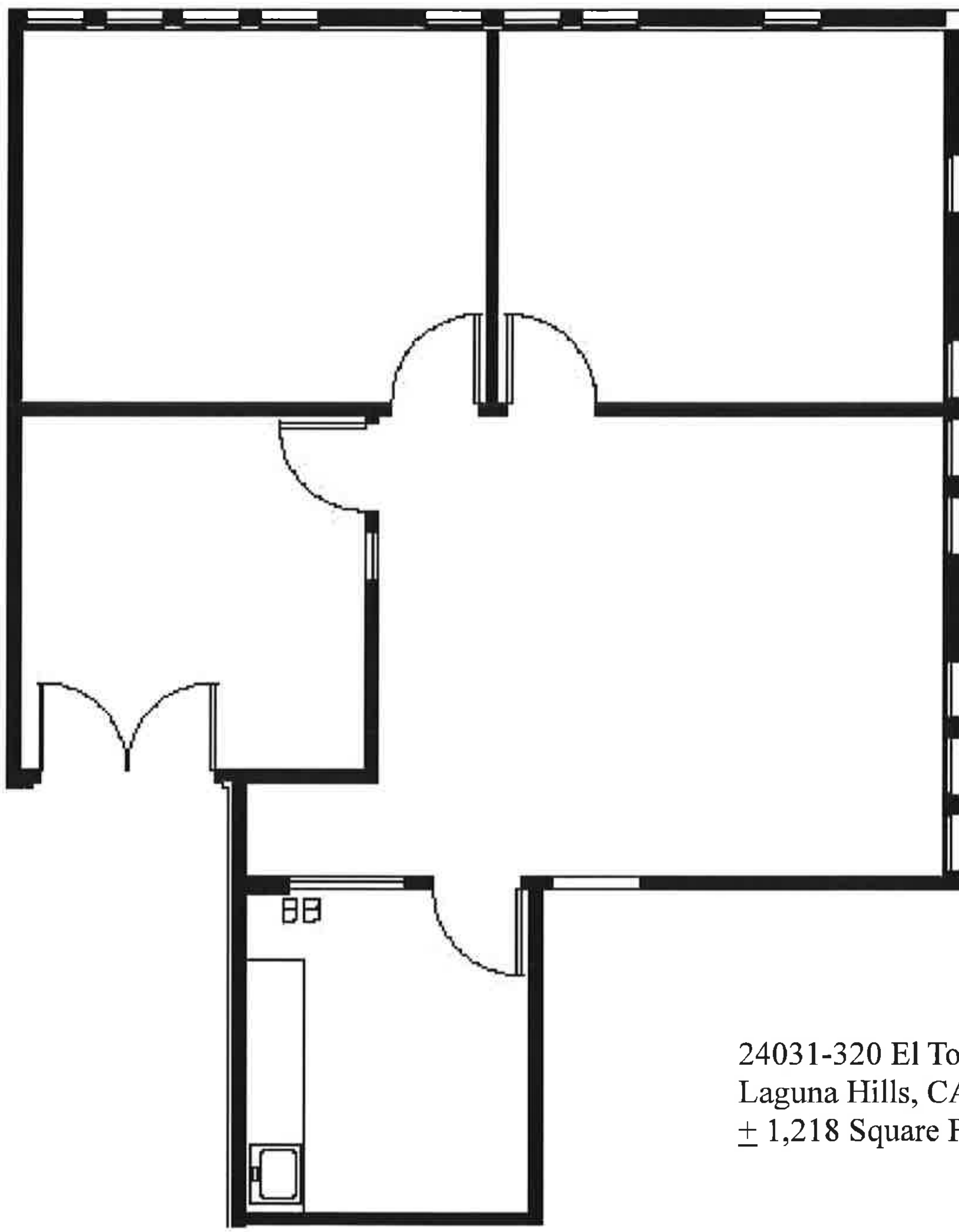
By: Michael Ryan

Its: Board Treasurer

EXHIBIT "A"

LAGUNA HILLS CIVIC CENTER

24031-24035 El Toro Road, Laguna Hills



24031-320 El Toro Road
Laguna Hills, CA 92653
± 1,218 Square Feet

For Leasing Information:

Sandi Montez
smontez@essexrealty.com

Jessica Heer
jheer@essexrealty.com

(949) 218-3801

Managed by:

ESSEX | Management Investment Development

EXHIBIT B

RULES AND REGULATIONS

ATTACHED TO AND MADE A PART OF STANDARD OFFICE LEASE

The following Rules and Regulations shall be in effect at the Office Building Project. Lessor reserves the right to adopt reasonable modifications and additions hereto. In the case of any conflict between these Rules and Regulations and the Lease, the Lease shall be controlling.

1. Except with the prior written consent of Lessor, no Lessee shall conduct any retail sales or any manufacturing of any kind in or from the Premises, or any business other than that specifically provided for in the Lease.

2. Lessor reserves the right to prohibit personal goods and services vendors from access to the Office Building Project except upon such reasonable terms and conditions, including but not limited to the payment of a reasonable fee and provision for insurance coverage, as are related to the safety, care and cleanliness of the Office Building Project, the preservation of good order thereon, and the relief of any financial or other burden on Lessor occasioned by the presence of such vendors or the sale by them of personal goods or services to the Lessee or its employees. If reasonably necessary for the accomplishment of these purposes, Lessor may exclude a particular vendor entirely or limit the number of vendors who may be present at any one time in the Office Building Project. The term "personal goods or services vendors" means persons who periodically enter the Office Building Project of which the Premises are a part for the purpose of selling goods or services to a Lessee, other than goods or services, which are used by a lessee only for the purpose of conducting its business on the Premises. "Personal goods or services" include, but are not limited to, drinking water and other beverages, food, barbering services, and shoe shining services. This Section 2 shall not apply to Lessee's vendors and suppliers in connection with Lessee's operation of its business.

3. The sidewalks, halls, passages, elevators and stairways shall not be obstructed by any Lessee or used by it for any purpose other than for ingress to and egress from their respective Premises. The halls, passages, entrances, elevators, stairways, balconies and roof are not for the use of the general public, and Lessor shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Lessor shall be prejudicial to the safety, character, reputation and interests of the Office Building Project and its lessees, provided that nothing herein contained shall be construed to prevent such access to persons with whom Lessee normally deals only for the purpose of conducting its business on the Premises (such as clients, customers, office suppliers and equipment vendors, and the like) unless such persons are engaged in illegal activities. No Lessee and no employees of any Lessee shall go upon the roof of the Building without the written consent of Lessor. This Section 3 shall not apply to Lessee's vendor's suppliers in connection with Lessee's operation of its business.

4. The sashes, sash doors, windows, glass lights, and any lights or skylights that reflect or admit light into the halls or other places of the Building shall not be covered or obstructed. The toilet rooms, water and wash closets and other water apparatus shall not be used for any purpose other than that or which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein, and the expense of any breakage, stoppage or damage, resulting from the violation of this rule shall be borne by the Lessee who, or whose clerks, agents, employees, or visitors, shall have caused it.

5. No sign, advertisement or notice visible from the exterior of the Premises or Building shall be inscribed, painted or affixed by Lessee on any part of the Office Building Project or the Premises without the prior written consent of Lessor. If Lessor shall have given such consent at any time, whether before or after the execution of this Lease, such consent shall in no way operate as a waiver or release of any of the

provisions hereof or of this Lease, and shall be deemed to relate only to the particular sign, advertisement or notice so consented to by Lessor and shall not be construed as dispensing with the necessity or obtaining the specific written consent of Lessor with respect to each and every such sign, advertisement or notice, as the case may be, so consented to by Lessor. Lessor shall have the right to remove any non-approved sign, advertisement or notice, without notice to and at the expense of Lessee, and Lessor shall not be liable in damages for such removal.

6. In order to maintain the outward professional appearance of the Office Building Project all window coverings to be installed at the Premises shall be subject to Lessor's prior approval. If Lessor, by a notice in writing to Lessee, shall object to any curtain, blind, shade or screen attached to or hung in, or used in connection with, any window door of the Premises, such use of such curtain, blind, shade or screen shall be forthwith discontinued by Lessee. No awnings shall be permitted on any part of the Premises.

7. Lessee shall not lay linoleum, tile, carpet or other similar floor covering so that the same shall be affixed to the floor of the Premises in any manner except as approved by Lessor.

8. Lessee shall not do or permit anything to be done in the Premises, or bring or keep anything therein, which shall in any way increase the rate of fire insurance on the Office Building Project, or on the property kept therein, or obstruct or interfere with the rights of other Lessees, or in any way injure or annoy them, or conflict with the regulations of the Fire Department or the fire laws, or with any insurance policy upon the Office Building Project, or any part thereof, or with any rules and ordinances established by the Board of Health or other governmental authority.

9. No Lessee shall sweep or throw or permit to be swept or thrown from the Premises any dirt or other substance into any of the corridors or halls or elevators, or out of the doors or windows or stairways of the Building. Lessee shall not use, keep or permit to be used any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Lessor or other occupants of the Office Building Project by reason of noise, odors, fire hazards and/or vibrations, or interfere in any way with other Lessees or those having business therein, nor shall any animals or birds be kept in or about the Office Building Project.

10. Lessee and its employees, agents and invitees shall not smoke any tobacco products or any other smoking materials whatsoever in the Premises, Building, common areas or any other area of the Project except in such areas, if any, as shall be designated by Lessor for smoking, in Lessor's sole and absolute discretion.

11. No cooking shall be done or permitted by Lessee on the Premises, except for the use of a microwave oven for food or Underwriter's Laboratory approved equipment for brewing coffee, tea, and similar beverages shall be permitted, provided that such use is in compliance with law. Offices in the Office Building Project shall not be used for the storage of merchandise or for sleeping or lodging.

12. Lessee, upon the termination of its tenancy, shall deliver to Lessor all the keys of offices, rooms and toilet rooms which shall have been furnished Lessee or which Lessee shall have had made, and in the event of loss of any keys so furnished, shall pay Lessor therefore.

13. On Saturdays after 6:00pm., Sundays and legal holidays, and on other days between the hours of 9:00 p.m. and 7:00 a.m., access to the Office Building Project or to the halls, corridors, elevators or stairways in the Building, or to the Premises may be refused unless the person seeking access is known to the building watchman, if any, in charge and has a pass or is properly identified. Lessor shall in no case be liable for damages for the admission to or exclusion from the Office Building Project of any person whom Lessor has the right to exclude under Rule 3 above. In case of invasion, mob, riot, public excitement, or other commotion, Lessor reserves the right but shall not be

obligated to prevent access to the Office Building Project during the continuance of the same by closing the doors or otherwise, for the safety of the tenants and protection of property in the Office Building Project.

14. Lessee shall see that the windows and doors of the Premises are closed and securely locked before leaving the building and Lessee shall exercise extraordinary care and caution that all water faucets or water apparatus are entirely shut off before Lessee or Lessee's employees leave the Building, and that all electricity, gas or air shall likewise be carefully shut off, so as to prevent waste or damage, and for any default or carelessness Lessee shall make good all injuries sustained by other Lessees or occupants of the Building or Lessor.

15. Lessee shall not alter any lock or install a new or additional lock or any bolt on any door of the Premises without prior written consent of Lessor. If Lessor shall give its consent, Lessee shall in each case furnish Lessor with a key for any such lock.

16. Lessee shall not install equipment such as, but not limited to, electronic tabulating or computer equipment requiring electrical or air conditioning service in excess of those to be provided by Lessor under the Lease and any such equipment shall be placed in the Premises in settings approved by Lessor to adsorb or prevent any vibration, noise or annoyance.

17. No bicycle, or shopping cart, or other vehicle or any animal shall be brought into the Premises or the halls, corridors, elevators or any part of the Building by Lessee.

18. Lessor shall have the right to prohibit the use of the name of the Office Building Project or any other publicity by Lessee which in Landlord's opinion tends to impair the reputation of the Office Building Project, or their desirability for other Lessees, and upon written notice from Lessor, Lessee will refrain from or discontinue such publicity.

19. Lessee shall not erect any aerial or antenna on the roof or exterior walls of the Premises, the Building, or the Office Building Project.

20. Lessee shall not overload the floor of the Premises. In addition, Lessee shall not mark, drive nails, screw or drill into partitions, ceilings or floor of the Premises or deface the Premises.

21. No furniture, freight or equipment of any kind shall be brought into the Building or the Building's elevator without the consent of Lessor and all moving of the same into or out of the Building shall be done at such time and in such manner, as Lessor shall designate. Lessor shall have the right to prescribe the weight, size and position of all safes and other heavy equipment brought into the Building and also the times and manner of moving the same in and out of the Office Building Project. Safes or other heavy objects shall, if considered necessary by Lessor, stand on wood strips of such thickness as is necessary to properly distribute the weight. However, Lessor's consent to placement of Lessee's safes, heavy equipment or furniture shall not constitute a representation or warranty by Lessor that the safe, heavy equipment or furniture complies, with regard to distribution of weight and/or vibration, with the provisions of the Rule 21 nor relieve Lessee from responsibility for the consequences of noncompliance. Lessor will not be responsible for loss of or damage to any safe or property from any cause and all damage done to the Building by moving or maintaining any such safe or property from any cause and all damage done to the Building by moving or maintaining any such safe or other property shall be repaired at the expense of Lessee. There shall not be used in any space, or in the public halls of the Building, either by any Lessee or others, any hand trucks except those equipped with rubber tires and side guards.

22. Except with the written consent of Lessor, no person or persons other than those approved by Lessor shall be permitted to enter the Building for their purpose of cleaning the same. Lessee shall not cause any unnecessary labor by reason of Lessee's carelessness or indifference in the preservation of good order and cleanliness. Lessor shall in no way be responsible to any Lessee for any loss of property on the Premises, however occurring, or for any damage done to the effects of any lessee by the janitor or any other employee or any other person. Janitor service shall include ordinary dusting and cleaning by the janitor assigned to such work and shall not include cleaning of carpets or rugs, except normal vacuuming, or moving of furniture and other special services. Janitor service may not be furnished on nights when rooms are occupied after 9:00p.m.

23. Lessor will direct electricians as to where and how telephone and telegraph wires are to be introduced. No boring or cutting for wires will be allowed without the consent of Lessor. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of Lessor.

24. No furniture, packages, supplies, equipment or merchandise will be received in the Building or carried up or down in the elevators, except between such hours and in such elevators as shall be designated by Lessor.

25. Lessor reserves the right to exclude or expel from the Office Building Project any person who in the judgment of Lessor, is intoxicated or under the influence of liquor or illegal, non-prescription drugs, or who shall in any manner do any act in violation of any of the Rules and Regulations of the Office Building Project.

26. The requirements of Lessee will be attended to only upon application to Lessor. Contractors, vendors and employees of Lessor shall not perform any work or do anything outside of their regular duties unless under special instructions from the Lessor or Lessor's agent.

27. No vending machine shall be installed, maintained or operated upon the Premises without the written consent of the Lessor.

28. Lessor shall have the right, exercisable without notice and without liability to Lessee, to change the name and the street address of the Building and/or Office Building Project of which the Premises are a part.

29. Lessee agrees that it shall comply with all fire and security regulations that may be issued from time-to-time by Lessor and Lessee also shall provide Lessor with the name of a designated responsible employee to represent Lessee in all matters pertaining to such fire or security regulations.

30. Lessor reserves the right by written notice to Lessee, to rescind, alter or waive any rule or regulation at any time prescribed for the Office Building Project when, in Lessor's judgment, it is necessary, desirable or proper for the best interest of the Office Building Project and its lessees.

31. Lessees shall not disturb, solicit, or canvas any occupant of the Office Building Project and shall cooperate to prevent same.

32. Lessor shall furnish heating and air conditioning during the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturday except for holidays. In the event Lessee requires heating and air conditioning during off hours, Sundays or Holidays, Lessor shall on notice provide such services at the then prevailing rate for such extra services.

33. Lessee shall cooperate with Lessor in obtaining maximum effectiveness of the cooling system by closing blinds when the sun's rays fall directly on windows of the premises. Lessee shall not obstruct, alter, or in any way impair the efficient operation of Lessor's heating, ventilating and air-conditioning system. Lessee shall not tamper with or change the setting of any thermostats or control valves.

34. Parking

(a) The parking lot shall be accessible twenty-four (24) hours per day, subject to parking card or other reasonable Identification or security restriction as may be reasonably established by Lessor from time-to-time. Lessee agrees to cooperate with Lessor in completing regular maintenance of the parking lot.

(b) Automobiles must be parked entirely within the stall lines.

(c) All directional signs and arrows must be observed and the speed limit shall be 5 miles per hour.

(d) Parking is prohibited in areas not striped for parking.

(e) Lessor may refuse to permit any person who violates the within rules to park in the parking lot, and any violation of the rules shall subject the automobile to removal from the parking lot at the parker's expense.

(f) Every parker is required to park and lock his or her own automobile. All responsibility for any loss or damage to automobile or any personal property therein is assumed by the parker.

(g) The parking lot is for the sole purpose of parking one automobile per space. Washing, waxing, cleaning or servicing of any vehicles by the parker or his agents is prohibited.

(h) Storage of vehicles in the parking facilities is prohibited. Lessee and Lessee's employees and visitors shall not leave vehicles in the parking lot overnight.

(I) Lessor reserves the right to restrict customer, Lessee and Lessee's employees parking to a limited designated area or areas.

35. Lessee agrees to comply and acquaint its employees with such reasonable rules and regulations in the use of such Common areas as Lessor may adopt from time to time for the orderly and proper operation of said Common Areas.

Lessor reserves the right to make such other and further rules and regulations as in its judgment may be for the safety, care and cleanliness of the Office Building Project and for the preservation of good order therein. Lessee agrees to abide by these Rules and Regulations herein above stated and any additional rules and regulations, which are adopted hereafter.

Date: 12/11/14 Date: 12-1-14

Lessor's Initials: JBC Lessee's Initials: RD

EXHIBIT "C"

Waiver and Release.

It is the express and understood intent, purpose, desire, and agreement of the parties in the event of termination for cause or expiration of the Lease term, that Lessee, on behalf of itself, its officers, heirs, agents, shareholders, employees, subcontractors, executors, successors and assigns, shall and does hereby release and discharge Lessor, and its respective elected and appointed officials, officers, directors, employees, attorneys, accountants, consultants, other professionals, and agents, from and against the following: any claims, penalties, actions or causes of action, obligations, and demands of any kind including but not limited to, any claims arising under the California Eminent Domain Law (Title 7 (commending with Section 1230.010) of Part 3 of the California Code of Civil Procedure), the Relocation Statutes and Regulations set forth in Chapter 16 (commending with Section 7260) of Division 7 of the California Government Code and Subchapter 1 (commencing with Section 6000) Division 3 of Title 25 of the California Code of regulations, and claims for a "taking" or inverse condemnation arising under the United States or California Constitutions or under any federal, state, or local law, statute, ordinance, regulation, rule, official policy, court order, or common law (collectively, the "Released Claims").

The parties further acknowledge that the Released Claims include any claims for loss of business goodwill pursuant to Code of Civil Procedure §1263.510 et seq., for precondemnation damages and severance damages.

Date: 12-1-14

Lessee's Initials: RD

EXHIBIT "D"

WORK LETTER/REQUIREMENTS FOR IMPROVEMENTS OR ALTERATIONS BY LESSEE

If Lessor shall permit Lessee to construct any interior improvements (subsequent to the initial improvements to be constructed by Lessor, if any) in the Premises or to have any work performed in the Premises at any time prior to or during the Lease term by a contractor retained by Lessee ("Lessee's Work"), then Lessee shall comply with the requirements set forth herein. If Lessee's Work has been properly authorized, Lessee will receive written approval and consent for alterations to the Premises. All alterations to the Premises, excepting movable furniture and trade fixtures, shall, at Lessor's option, become a part of the realty and belong to Lessor.

1. SUBMITTAL OF PLANS. Prior to commencing any work in the Premises, Lessee shall submit to Lessor for approval its proposed plans for the work. Without limiting the foregoing, Lessee shall provide:

(a) A separate scale drawing denoting all proposed construction and/or demolition, if necessary.

(b) A separate drawing for each trade proposing structural, electrical, mechanical, civil or landscaping modifications.

(c) Specify all dimensions and complete references to all work to be performed in the affected areas.

(d) If adding extra electrical or mechanical equipment, provide complete operating and maintenance specifications for each item.

2. CHECKLIST. With respect to each project, Lessor will provide Lessee with a checklist listing the items required to be furnished to Lessor in connection with the proposed work. Lessee shall furnish to Lessor prior to, during, or upon completion of Lessee's Work, as applicable, each of the items specified in the checklist attached hereto as Attachment 1.

3. CONTRACTORS PROVIDING INTERIOR IMPROVEMENT SERVICES.

(a) The contractor employed by Lessee and any subcontractors shall be (i) duly licensed in the state in which the Premises are located, and (ii) subject to Lessor's prior written approval, which approval shall not be unreasonably withheld. If more than one trade is employed on a single job, state law requires the services of a general contractor in addition to contractors for specialty work being performed.

(b) Each contractor shall provide proof of licensing as a general or specialty contractor in accordance with state law. Additionally, each contractor shall furnish proof of licensing in the city or municipality in which the construction related activity is to take place.

(c) Lessee shall use Lessor's subcontractor for mechanical, electrical, plumbing, roofing and roofing consultant if available at competitive rates.

(d) Lessee and Lessee's contractors shall comply with all Applicable Laws pertaining to the performance of Lessee's Work and the completed improvements and all applicable safety regulations established by Lessor or the general contractor.

(e) Prior to commencement of any work in the Premises, Lessee and Lessee's contractors (and any subcontractors) shall obtain and provide Lessor with certificates evidencing Workers' Compensation, public liability and property damage insurance in amounts and forms and with companies satisfactory to Lessor. Each general contractor (and any subcontractor) employed on the Premises shall provide Lessor with a current certificate of insurance in effect for that contractor with a thirty day notice of cancellation or revocation clause. Insurance requirements are as follows:

(i) Comprehensive General Liability with a $1,000,000 Combined Single Limit covering the liability of Lessor and contractor for bodily injury and property damage arising as a result of the construction of the improvements and the services performed thereunder. Lessor and any Management Company shall be named as an additional insured.

(ii) Comprehensive Automobile Liability with a $1,000,000 Combined Single Limit covering Lessor and vehicles used by contractor (and any subcontractor) in connection with the construction of the improvements.

(iii) Workers' Compensation and Employer's Liability as required by law, for employees of the contractor (and any subcontractors) performing work on the Premises.

(f) The following requirements shall be incorporated as "Special Conditions" into the contract between Lessee and its contractors and a copy of the contract shall be furnished to Lessor prior to the commencement of Lessee's Work:

(i) Prior to start of Lessee's Work, Lessee's contractor shall provide Lessor with a construction schedule in "bar graph" form indicating the completion dates of all phases of Lessee's Work.

(ii) Lessee's contractor shall be responsible for the repair, replacement or clean-up of any damage done by it to other contractors' work which specifically includes accessways to the Premises which may be concurrently used by others.

(iii) Lessee's contractor shall accept the Premises prior to starting any trenching operations. Any rework of sub-base or compaction required after the contractor's initial acceptance of the Premises shall be done by Lessee's contractor, which shall include the removal from the Project of any excess dirt or debris.

(iv) Lessee's contractor shall contain its storage of materials and its operations within the Premises and such other space as it may be assigned by Lessor or Lessor's contractor. Should Lessee's contractor be assigned space outside the Premises, it shall move to such other space as Lessor or Lessor's contractor shall direct from time to time to avoid interference or delays with other work.

(v) Lessee's contractor shall clean up the construction area and surrounding exterior areas daily. All trash, demolition materials and surplus construction materials shall be stored within the Premises and promptly removed from the Premises and the Project and disposed of in an approved sanitation site.

(vi) Lessee's contractor shall provide temporary utilities, portable toilet facilities, and potable drinking water as required for its work within the Premises and shall pay to Lessor's contractor the cost of any temporary utilities and facilities provided by Lessor's contractor at Lessee's contractor's request.

(vii) Lessee's contractor shall notify Lessor or Lessor's project manager of any planned work to be done on weekends or other than normal job hours.

(viii) Lessee's contractor or subcontractors shall not post signs on any part of the Project or on the Premises.

4. COSTS.

(a) Lessee shall promptly pay any and all costs and expenses in connection with or arising out of the performance of Lessee's Work (including the costs of permits thereof) and shall furnish to Lessor evidence of such payment upon request.

(b) Except in the case of carpet replacement or repainting, Lessee shall pay Lessor an amount equal to five percent (5%) of the total hard costs of construction and installation of Lessee's Work as compensation to Lessor for review of plans, use of facilities and other miscellaneous costs of Lessor incurred as a result of such work.

5. CONTRACTOR'S BONDS. At Lessor's sole discretion, Lessor may require Lessee to obtain performance and completion bonds to insure Interior Work

6. MECHANIC'S LIENS.

(a) Lessee shall not suffer or permit to be enforced against the Premises or any part of the Project any mechanic's, materialman's, contractor's or subcontractor's lien arising out of any work of improvement, however it may arise.

(b) Lessee shall notify Lessor at least ten (10) days prior to the commencement of construction of any Lessee's Work and Lessor shall have the right to post and record a notice of no responsibility in conformity with applicable law. Within ten (10) days following completion of Lessee's Work, Lessee shall file a Notice of Completion and deliver to Lessor an unconditional release and waiver of lien executed by each contractor, subcontractor and materialman involved in Lessee's Work.

(c) In the event any lien is filed against the Project or any portion thereof or against Lessee's leasehold interest therein as a result of Lessee's work, Lessee shall obtain the release and/or discharge of said lien, within ten (10) days after the filing thereof. In the event Lessee fails to do so, Lessor may obtain the release and/or discharge of said lien and Lessee shall indemnify Lessor for the costs thereof, including reasonable attorney's fees, together with interest at the Applicable Interest Rate from the date of demand. Nothing herein shall prohibit Lessee from contesting the validity of any such asserted claim, provided Lessee has furnished to Lessor a lien release bond freeing the Premises from the effect of the lien claim.

7. INDEMNITY. Lessee shall indemnify, defend (with counsel satisfactory to Lessor) and hold Lessor harmless from and against any and all suits, claims, actions, loss, cost or expense (including claims for workers' compensation, attorney's fees and costs) based on personal injury or property damage, or otherwise (including, without limitation, contract and breach of warranty claims) arising from the performance of Lessee's Work. Lessee shall repair or replace (or, at Lessor's election, reimburse Lessor for the cost of repairing or replacing) any portion of the Building or item of Lessor's equipment or any of Lessor's real or personal property damaged, lost or destroyed in the performance of Lessee's Work.

8. BUILDING STANDARDS. All work shall conform to Lessor's established building standards and specifications. Lessee is required to make these standards part of the construction documents.

9. ROOF PENETRATIONS. If improvements penetrate the roof membrane, the penetrations will be sealed per Lessor/IRC roofing specifications and inspected by IRC to maintain roof warranty. The cost of inspection and all corrective work shall be borne by Lessee. Lessee shall use Lessor's original roofing contractor.

10. BUILDING MODIFICATIONS. Work will only be approved within the confines of a given space. Lessee will not be allowed to modify building exterior or mechanical and electrical service as provided to the building in common with other tenants.

11. ELECTRICAL WORK. All electrical work shall be approved from the unit space electrical panel only. Additional service requirements shall be secured only by direction of Lessor. Lessee shall use Lessor's original electrical contractor if available at competitive rates.

12. SCHEDULE OF WORK. Lessee shall be required to provide a schedule of all work to be performed, subject to Lessor approval. All costs to produce such schedule shall be borne solely by Lessee.

13. CLEAN UP AND DISPOSAL OF CONSTRUCTION DEBRIS. Building trash containers are provided for office generated trash only and are not to be used for disposal of construction-related materials and debris. Unapproved usage will result in a penalty assessment to the Lessee equal to the cost of an extra pick-up service as provided under the current rate schedule of regular trash removal service.

14. INSPECTION BY LANDLORD. Lessor reserves the following rights: (i) the right of inspection prior to, during and at completion of all construction and/or demolition, (ii) the right to post and record a notice of nonresponsibility in conformity with California law, and (iii) the right to order, if reasonable, a total stop to all improvements underway for non-compliance with any of the requirements hereof.

15. GENERAL PROVISIONS.

(a) If Lessor has agreed to provide an allowance toward the cost of tenant improvements (other than the initial Lessee Improvement Allowance), Lessor shall retain from such funds an amount determined by Lessor until Lessee has fully complied with the requirements hereof.

(b) All materials, work, installations and decorations of any nature whatsoever brought on or installed in the Premises before the commencement of the Term or throughout the Term shall be at Lessee's risk, and neither Lessor nor any party acting on Lessor's behalf shall be responsible for any damage thereto or loss or destruction thereof due to any reason or cause whatsoever.

(c) Nothing contained herein shall make or constitute Lessee as the agent of Lessor.

Attachment 1 to "Exhibit D"

ITEMS TO BE FURNISHED TO LESSOR FOR EACH WORK OF IMPROVEMENT

1. Plan of Alterations for Lessor Approval.
2. Contractor(s), Address, Telephone Number, Contact Person.
3. Copy of Contractor's State and City Business License.
4. Copy of Building Permit.
5. Copy of Final Inspection and Signed Building Permit Cards.
6. Copy of Certificate of Insurance Naming The City of Laguna Hills and Essex Realty Management as Additional Insured. Insurance to include Comprehensive General Liability, Comprehensive Auto, Workers' Compensation, Employer's Liability and original Endorsement.
7. Signed Unconditional Lien Waiver in favor of Development Corporation.
8. Schedule of Work.
9. Copy of Completion and Payment Bond.
10. Architect's License and Expiration.
11. Copy of Permit Plans.
12. Copy of As-Builts.
13. Copy of Recorded Notice of Completion.
14. Certificate of Occupancy.
15. Evidence of Insurance for All-Risk/Builder's Risk Insurance to the Amount of Improvements.

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE:	**January 9, 2018**
TO:	**Chair and Agency Members**
FROM:	**Cindy Sands** **Admin. Assistant to City Manager**
ISSUE:	**Approval of Minutes for December 12, 2017, Regular Meeting**

RECOMMENDATION: That the Planning Agency approve the Minutes for the December 12, 2017, Regular Meeting.

ATTACHMENTS:

- PA Minutes 121217

3.8 Amendment to Retainer Agreement for City Attorney Services

Recommendation: That the City Council adopt Resolution No. 2017-12-12-4, A Resolution of the City Council of the City of Laguna Hills, California, approving Amended Exhibit A to the Retainer Agreement for City Attorney Service Rates.

3.9 Memorandum of Understanding with Moulton Niguel Water District for Collaborative Efforts to Improve Surface Water Quality

Recommendation: That the City Council approve the Memorandum of Understanding with Moulton Niguel Water District related to collaborative efforts to improve surface water quality and authorize the City Manager to execute the Agreement.

ITEMS REMOVED FROM THE CONSENT CALENDAR

There were no items removed from the Consent Calendar.

4. PLANNING AGENCY

Mayor Carruth recessed the City Council meeting and, acting in the capacity of Chair, called the Regular Meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:40 p.m.

4.1 ROLL CALL OF PLANNING AGENCY MEMBERS

Attendee Name	Title	Status	Arrived
Mel Carruth	Chair	Present	
Dore J. Gilbert, M.D.	Vice Chair	Present	
Janine Heft	Agency Member	Present	
Barbara D. Kogerman	Agency Member	Present	
Don Sedgwick	Agency Member	Present	

4.2 PUBLIC COMMENTS

There were no Public Comments.

4.3 APPROVAL OF MINUTES FOR NOVEMBER 28, 2017, REGULAR MEETING

4.3.1 Approval of Minutes for November 28, 2017, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the November 28, 2017, Regular Meeting.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dore J. Gilbert, M.D, Vice Chair
SECONDER:	Don Sedgwick, Agency Member
AYES:	Mel Carruth, Chair; Dore J. Gilbert, M.D., Vice Chair; Janine Heft, Agency Member; Barbara D. Kogerman, Agency Member; Don Sedgwick, Agency Member

4.4 ADMINISTRATIVE REPORTS

There were no Administrative Reports.

4.5 PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency Public Hearings.

PLANNING AGENCY ADJOURNMENT

Mayor Carruth reconvened the City Council Meeting at 7:41 p.m. All Council Members were present.

5. CITY COUNCIL PUBLIC HEARINGS

There were no City Council Public Hearings.

6. ADMINISTRATIVE REPORTS

6.1 City Manager

6.1.1 2017 City Manager's Year End Report

City Manager Channing briefly summarized the information provided in the Staff Report.

Recommendation: That the City Council receive and file the 2017 City Manager's Year End Report.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Don Sedgwick, Council Member
SECONDER:	Dore J. Gilbert, M.D., Mayor Pro Tempore
AYES:	Mel Carruth, Mayor; Dore J. Gilbert, M.D., Mayor Pro Tempore; Janine Heft, Council Member; Barbara D. Kogerman, Council Member; Don Sedgwick, Council Member

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: January 9, 2018

TO: Chair and Agency Members

FROM: David Chantarangsu
Community Development Director

ISSUE: Conditional Use Permit No. 8-17-3947, a Request by Mehdi Motadi to Establish and Operate an Indoor Vehicle Towing and Indoor Vehicle Impound Services Business at 22912 El Pacifico Drive (APN 588-061-16) in the Mixed Use Zoning District

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RECOMMENDATION: That the Planning Agency: (1) Conduct a Public Hearing for Conditional Use Permit No. 8-17-3947; (2) Find and determine that the project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 of Title 14, Chapter 3 of the California Code of Regulations (Class 1, Existing Facilities exemption); and (3) Adopt a Resolution entitled: "A Resolution of the Planning Agency of the City of Laguna Hills, California, approving Conditional Use Permit (CUP) No. 8-17-3947, a request by Mehdi Motadi to establish and operate an indoor vehicle towing and indoor vehicle impound services business at 22912 El Pacifico Drive (APN 588-061-16) in the Mixed Use (MXU) Zoning District."

SUMMARY:

Conditional Use Permit (CUP) No. 8-17-3947 is a request by Mehdi Motadi ("the Applicant") to establish and operate an indoor vehicle towing and indoor vehicle impound services business (collectively referred to as "towing facilities") at 22912 El Pacifico Drive. The proposed use will be a new component of the existing business, Golden Touch, a vehicle body repair and paint business, which was approved by the Planning Agency in May 2016 (CUP No. 3-16-3469). The business is located within an existing 18,437 square-foot single-tenant industrial building in the Mixed Use (MXU) Zoning District. The Applicant proposes to add indoor vehicle towing and indoor vehicle impound services to the automotive services currently offered. All vehicle impound and towing facility operations are required to occur entirely within the enclosed building. Conditions of Approval have been included to ensure that all towed/impounded vehicles are parked and stored inside the building and that the business does not create any significant adverse impacts to the other office or industrial properties and tenants surrounding the business.

Staff has reviewed the Laguna Hills Development Code (Code) requirements, as well as General Plan issues, goals, and strategies, and has evaluated the potential for significant environmental impacts in accordance with the California Environmental Quality Act (CEQA). Staff has determined that the proposed project, subject to conditions of approval, will not result in any significant adverse impacts to the public, health, safety, and general welfare. Specifically, **Condition Nos. 14, 15, and 16** require that all towing facility operations be conducted entirely inside the enclosed tenant space to ensure compliance with Code requirements and compatibility with surrounding uses.

AUTHORITY:

In the MXU Zoning District, indoor vehicle impound and indoor towing service businesses (towing facilities) require a CUP (LHMC Table 9-30.020 - Mixed Uses). Towing facilities are defined by the Code as an indoor facility used exclusively for the indoor storage or holding of automobiles, motor vehicles, and recreational vehicles impounded or towed pursuant to order of a public law enforcement agency, insurance company, private party tow, roadside assistance, or similar use, and stored pending the return of the vehicle to its owner. This definition does not include wrecking, salvaging, scrapping, sale of vehicles or vehicle parts, or the dismantling of vehicles except pursuant to law enforcement investigation.

CUPs are used to evaluate uses that may have a moderate to high potential for adverse impact to adjacent or abutting uses, or to the surrounding community due to operating characteristics. Approval of CUPs can allow a use, subject to conditions, to ensure compatibility between the requested use and existing uses. Laguna Hills Municipal Code (LHMC) 9-92.030 grants the Planning Agency the authority to review and approve CUPs. LHMC 9-92.080(C) establishes the findings that are necessary to approve a CUP. Additionally, towing facilities are subject to the requirements of LHMC 9-30.090, which provides as follows:

> 9-30.090 Towing facilities - Indoor vehicle impound and indoor towing service business.
>
> Towing facilities - indoor vehicle impound and indoor towing service business

(indoor only), as defined in Section 9-04.200 ("T" Definitions), are permitted with approval of a CUP in the MXU Zoning District subject to the following requirements:

A. No indoor vehicle impound and indoor towing facility shall be closer than one thousand (1,000) feet to any residential or hotel property, as measured from property line to property line.

B. The indoor vehicle impound and indoor towing facility operations shall occur entirely within an enclosed building. If temporary parking of tow trucks occurs outside of the building while the tow trucks are awaiting deployment, parking is prohibited within required parking stalls, and the parking area shall be screened by a six-foot-high decorative masonry wall, landscaped hedge, or combination thereof. Open fencing, including chain link and wrought iron, shall not constitute adequate screening.

C. The indoor vehicle impound and indoor towing facility business shall be operated in compliance with all provisions of Chapters 9-40 (Design Regulations and Standards) and 9-74 (Property Maintenance). Although outdoor storage shall be permitted as an accessory use, subject to Section 9-30.080 (Outdoor storage), outdoor storage of vehicles is prohibited.

D. All indoor vehicle impound and indoor towing facilities shall provide adequate internal circulation for the movement of vehicles, and safe ingress and egress points from buildings and public streets.

BACKGROUND:

The subject property is approximately 1.2 acres, located at the intersection of Moulton Parkway and El Pacifico Drive in the MXU Zoning District. The property is improved with an existing +/- 18,437 square foot single-tenant industrial building with 38 surface parking spaces. All adjacent properties are also zoned MXU. Immediate uses to the north and south consist of single- and two-story office buildings, while uses to the east are single-story industrial buildings. Crossline Church is located to the west across Moulton Parkway. Other nearby uses include professional office, service uses, mini-warehouse (Public Storage), and moving/truck rental companies. **Attachment 1** provides a vicinity map of the project site and the surrounding area.

The Planning Agency previously approved CUP No. 3-16-3469 for Golden Touch, a vehicle body repair and paint business, subject to Conditions of Approval, on May 10,

2016. Following the CUP approval for Golden Touch, the Applicant requested that indoor vehicle towing and indoor vehicle impound services be added as a permitted use in the MXU Zoning District. Vehicle towing and impound services are also components of the Applicant's other business located in the City of Stanton. The City Council adopted Ordinance 2017-4 on July 11, 2017, adding indoor vehicle towing and indoor vehicle impound service uses as a permitted use in the MXU Zoning District subject to the approval of a CUP (ZTA No. 12-16-3724). However, specific development standards for indoor vehicle towing and indoor vehicle impound service uses were established by Ordinance of the City Council and are codified in LHMC 9-30.090, as set forth above. The subject building is outside of the 1,000 foot buffer from hotels and residential properties required by LHMC 9-30.090(A).

PROJECT DESCRIPTION AND ANALYSIS:

Project Description

The Applicant is proposing to add indoor vehicle towing and indoor vehicle impound services to their existing approved vehicle body repair and paint business. Golden Touch currently contracts with the Auto Club of Southern California (AAA), California Highway Patrol, Orange County Sheriff's Department, and the La Palma Police Department from their business location in the City of Stanton, and plans to contract with many of the same agencies at the proposed Laguna Hills towing facility location. The Applicant has acknowledged and represented that all proposed towing facility operations will occur entirely within the enclosed building, and that outdoor parking and storage of tow trucks and towed/impounded vehicles is prohibited pursuant to LHMC 9-30.090 and the Conditions of Approval.

The Applicant has identified 12 indoor parking spaces to meet the projected demand for the proposed indoor vehicle towing/impound service use. Other indoor warehouse area is currently used for vehicle repair and storage of vehicles under repair. Specific areas are identified on the floor plan submitted with the application. (See **Attachment 4**). The total number of vehicles inside the facility for both the auto body repair use and the proposed vehicle towing/impound use will vary depending on business volume, the number of vehicles actively under repair, and other factors. However, the indoor facility space is suitable for a total of approximately 24 vehicles.

The regular business hours for Golden Touch are Monday through Saturday from 8:00 a.m. to 5:00 p.m. Towed/impounded vehicles can be picked up by their respective owners or other responsible parties during these hours only. However, tow truck drivers (three trucks are anticipated to operate out of this location) will have access to the indoor tow parking at all times (24-hours per day). A gate and security cameras have been added at the entrance to the loading area.

Existing Approval and Operations

Following approval of CUP No. 3-16-3469 in May 2016, the Applicant undertook a number of unauthorized improvement projects to alter the existing property for which the necessary City permit and/or approvals were not obtained, as follows:

- Interior tenant improvement work and a small expansion of floor area (less than 1,000 square feet, see Plans, **Attachment 4**) for which building permits are required;
- Modification of parking lot lighting for which building permits are required;
- Additional business signage was added for which building permits and a Master Sign Program are required; and
- Extensive landscape modifications were made without approval of a landscape or irrigation plan.

The Applicant has been working on obtaining all of the required City permits and/or approvals, and staff has been in contact with the Applicant's sign contractor, landscape architect, and other design professionals working on the improvement projects to obtain and complete all required review and approvals for all unauthorized work. Conditions of Approval (**Condition Nos. 22, 23, and 24**) have been added to ensure this work is completed in a timely manner.

Conditions of the previous project approval for Golden Touch (CUP No. 3-16-3469) required that wrecked vehicles or vehicles awaiting or undergoing repair could not be parked or stored outdoors within required parking spaces. During a recent site inspection of the business, staff noted many vehicles clearly awaiting repair improperly parked outdoors and within required parking spaces. Upon notification by City staff, the Applicant promptly resolved this violation, as confirmed by staff in subsequent follow-up inspections.

Parking and Loading/Circulation

There are 38 on-site parking spaces. The parking requirement for indoor vehicle towing and impound uses is five parking spaces or one space per 10,000 square feet of storage area, whichever is greater. The Applicant anticipates the 12 marked spaces inside the tenant space will be used for vehicle storage for the towing/impound business. This represents approximately 2,400 square feet of storage area; therefore, five spaces are required for the towing/impound use. The parking requirement for the remaining square footage of business area for the existing body shop is 32 spaces, resulting in a total parking requirement of 37 spaces for all proposed components of the business. There will be a one-space surplus on the subject site.

The Applicant has confirmed that all towed/impounded vehicles will be parked and stored inside the building and that no outdoor vehicle storage will take place in required parking spaces or within the public right-of-way, which is consistent with the requirements of the Code and the Conditions of Approval. The Code additionally requires that loading/unloading take place in an enclosed area and provide safe ingress and egress from the building and the site. Toward this end, the Applicant has indicated that tow trucks will pull into the driveway and then back up to the vehicle roll-up door through the motorized gate to unload, then pull straight out of the site.

CONCLUSION:

Based on the Applicant's description of the proposed use and business operations and plans submitted as part of their application materials, staff has concluded that this project, subject to the attached Conditions of Approval, meets the requirements and objectives of the City's Development Code and is recommending approval of the CUP for the requested indoor vehicle towing and indoor vehicle impound service use. Several Conditions of Approval have been included in the attached Resolution to ensure that the business operates in a compatible, integrated manner within the context of the existing office and industrial environment surrounding the subject site, and meets with the requirements set forth in the Code (LHMC 9-30.090) for this type of use.

PUBLIC COMMENT:

A total of 21 public hearing notices were mailed, including all property owners of parcels within a 300-foot radius of the subject property. To date, no public comments or concerns have been received by staff.

CEQA FINDINGS:

Staff has reviewed the proposed project for compliance with CEQA and determined that this project is categorically exempt from CEQA pursuant to Section 15301 of Title 14, Chapter 3 of the California Code of Regulations (Class 1, Existing Facilities exemption). This exemption is applicable to the operation, permitting, or minor alteration to an existing facility involving negligible or no expansion.

ATTACHMENTS:

- Att 1 Vicinity Map
- Att 2 Cover
- Att 2 Reso
- Att 3 Justification (updated)
- Att 4 Plans
- Att 5 Loading Plan

Attachment 1

Vicinity Map

Attachment 1: Vicinity Map

Attachment 2

Proposed
Resolution of Approval

RESOLUTION NO. PA2018-01-09-

A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT (CUP) NO. 8-17-3947, A REQUEST BY MEHDI MOTADI TO ESTABLISH AND OPERATE AN INDOOR VEHICLE TOWING AND INDOOR VEHICLE IMPOUND SERVICES BUSINESS AT 22912 EL PACIFICO DRIVE (APN 588-061-16) IN THE MIXED USE (MXU) ZONING DISTRICT

The Planning Agency of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, Mehdi Motadi ("the Applicant"), the owner of Golden Touch, has filed an application for CUP No. 8-17-3947 to establish and operate an indoor vehicle towing and indoor vehicle impound service business at 22912 El Pacifico Drive in the MXU district; and

WHEREAS, CUP No. 8-17-3947, is hereby found to be Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 of Title 14, Chapter 3 of the California Code of Regulations (Class 1, Existing Facilities); and

WHEREAS, the Planning Agency has considered evidence presented by the Community Development Department, the Applicant, and other interested parties with respect to the subject application at a duly noticed public hearing held on January 9, 2018.

NOW, THEREFORE, THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. That the required findings by the City for approval of CUP No. 8-17-3947 have been met and made as follows:

1. The proposed use is consistent with the General Plan.

The General Plan land use designation for the subject property is Mixed Use, which is intended to provide for areas where a variety of goods and services can be obtained in an overall planned environment including industrial and manufacturing uses, auto-related uses, administrative and professional uses, and retail and restaurant uses. In fact, the Mixed Use designation allows the most industrial uses of any land use designation in the City. The subject property carries a zone designation of MXU which implements the property's Mixed Use General Plan land use designation. Indoor vehicle towing and impound uses are permitted in the MXU Zoning District with a CUP.

2. The nature, condition, and development of adjacent uses, buildings, and structures have been considered and the proposed conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures.

The indoor vehicle towing and indoor vehicle impound service use will be located in an existing single-tenant industrial building already approved for vehicle body repair and paint use. The proposed use requires similar site/building features as the existing vehicle body repair use such as indoor warehouse area for the storage of vehicles and has similar conditions of approval as the existing use, such that potential issues for the proposed use are similar in nature to the issues that could affect adjacent uses and buildings from the existing use. Staff is unaware of any complaints or reported issues related to the operation of the current vehicle body repair use. Surrounding uses include office, service, and other industrial type uses. The addition of indoor vehicle towing/impound services will not negatively affect surrounding businesses or buildings, and will be a new, valuable service to the surrounding community. Conditions of Approval have been added requiring that all indoor vehicle impounds and indoor towing facility operations shall occur entirely within the enclosed building and that all loading/unloading of vehicles shall occur entirely within the approved loading area. Given the existing auto body repair use and the industrial nature of the surrounding area and the application of conditions of approval, the proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures.

3. The proposed site is adequate in size and shape to accommodate the use and integrate it with the existing and planned uses in the vicinity.

The subject tenant space is an approximately 18,500 square foot single-tenant industrial building. The proposed use will convert existing vehicle shop and office area to indoor storage for towed/impounded vehicles. The Applicant has indicated that all vehicles, including the tow trucks, will be parked within the enclosed subject tenant space. There is sufficient parking on the site to accommodate the addition of this use at the anticipated operations identified by the Applicant. Conditions of Approval have been added to ensure that the use is compatible with the surrounding uses and structures. Such conditions include that no outdoor parking or storage of towed/impounded vehicles (including tow trucks) is permitted, and that vehicle loading and unloading shall be entirely within the approved loading area and not on any adjacent public rights of way. Surrounding businesses include professional offices, public storage, and moving companies/truck rentals.

4. All required development standards prescribed by the Development Code can be achieved.

The business is located in the MXU district, which includes development standards for parking, landscape, building setbacks, height limits, and floor area ratio. The proposed addition of an indoor vehicle towing/impound *service use does not affect any of these development standards. A small addition was completed without the benefit of required City approvals and/or permits. Conditions 22, 23, and 24 require that this previously competed and unpermitted tenant improvement work be permitted within a timely manner. The addition will not affect the existing lot coverage and does not exceed the maximum floor area ratio, as shown on the plans submitted with the application. Staff evaluated the required parking for the business with the addition of the proposed indoor vehicle towing and indoor vehicle impound use and found that the subject site has sufficient parking for all proposed components of the subject business.*

5. The conditions and limitations placed upon the use are necessary to ensure compatibility with adjacent or abutting uses and the preservation of the public peace, safety, and welfare.

Conditions placed upon this project are consistent with the LHMC requirements for indoor vehicle towing and indoor vehicle impound uses, and are intended to help maintain Laguna Hills' high property maintenance standards, ensure compatibility with adjacent or abutting uses, as well as protect the public health, safety, and welfare. Conditions of Approval require all indoor vehicle impounds and indoor towing facility operations, including tow truck and towed/impounded vehicle parking and storage, to occur entirely within the enclosed building, *with no outdoor vehicle storage permitted (Conditions 14, 15, and 16). Further all tenant improvement work must be reviewed and approved through the building permit process to ensure it complies with the standards of the California Building Codes (Condition 24). Conditions 22, 23, and 24 have been included requiring the Applicant to obtain all necessary City permits and/or approvals for unauthorized work already completed for tenant improvements, additions, signs, and landscape to ensure all modifications meet various local and state regulations.*

NOW, THEREFORE, based upon the above findings, the Planning Agency of the City of Laguna Hills does hereby approve CUP No. 8-17-3947 subject to the following conditions:

1. The following Conditions of Approval shall be binding and enforceable against, and, whenever used herein, the term "Applicant" shall mean and refer to, each of the following: the project applicant, Mehdi Motadi, the owner(s) and tenant(s) of the property, and each of their respective successors and assigns.

2. Unless the context dictates otherwise, whenever the term "this Permit" is used in the following Conditions of Approval, it shall refer to the Conditional Use Permit, CUP No. 8-17-3947 approved pursuant to this Resolution.

3. Unless the context dictates otherwise, whenever the term "Project" is used in the following Conditions of Approval, it shall collectively refer to the plans and exhibits submitted to the City by the Applicant to

depict the improvements to be constructed as part of the Project, as modified by these Conditions of Approval, including but not limited to the following: application form (submitted August 3, 2017), plans (submitted October 17, 2017), letter of justification (submitted October 17, 2017, loading plan (submitted September 12, 2017).

4. To the fullest extent permitted by law, the Applicant shall, at its sole cost and expense, protect, defend, indemnify, and hold harmless the City, its elected and appointed officers and officials, employees, agents, departments, agencies, authorized volunteers, consultants, boards, commissions, and committees, and instrumentalities thereof ("Indemnitees"), from and against any and all claims, liabilities, losses, fines, demands, penalties, lawsuits, writs of mandamus, and any other claims or actions or proceedings of any kind whatsoever (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to, arbitrations, mediations, and other such procedures), judgments, orders and decisions (collectively "Claims" and “Actions”), brought against the Indemnitees, which seek to attack, challenge, modify, set aside, void, or annul any action of or any permit or approval issued by the Indemnitees (including actions approved by the voters of the City) for, in connection with, or concerning the approval of this Permit. It is expressly understood and agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the defense of the Indemnitees for the Claims and Actions, and that the Applicant shall promptly reimburse the City for all costs and expenses directly and necessarily incurred by the City in the course of the defense, including reasonable attorneys' fees. The City shall promptly notify the Applicant of any Claims and Actions brought against the Indemnitees and shall cooperate in the defense of any such Claims and Actions. If the Applicant fails to so defend the Claims and Actions, the City shall have the right but not the obligation to do so and, if it does, the Applicant shall promptly pay the City's full cost thereof.

5. This approval constitutes approval of the proposed Project only to the extent that it complies with the City’s Development Code and any other applicable zoning regulations. Approval does not include any action or findings as to compliance or approval of the project regarding any other applicable ordinance, regulation, or requirement.

6. Failure to abide by and faithfully comply with any and all Conditions of Approval shall constitute grounds for revocation of this Permit by the Laguna Hills Planning Agency.

7. The Applicant shall agree in writing to these Conditions of Approval within 30 days of the Planning Agency’s approval.

8. Pursuant to Government Code Section 66020, the Applicant is informed that the 90-day period in which the Applicant may protest

the fees, dedications, reservation, or exaction imposed on this Project through the Conditions of Approval has begun.

9. The Applicant shall reimburse the City for any outstanding staff time spent on the processing of this Permit within 60 days of the Planning Agency's approval.

10. This Permit shall expire and be of no further force or effect if the Permit is not implemented within two years from January 9, 2018.

11. Within 48 hours from project approval, the Applicant shall submit to the City a check in the amount of $50.00, made payable to the Orange County Clerk-Recorder, for filing the Notice of Exemption.

12. The Applicant shall apply for a Certificate of Use and Occupancy prior to issuance of building permits, or prior to commencement of the use, whichever occurs first.

13. The subject property shall be kept clean and clear of all trash and debris.

14. All indoor vehicle impound and indoor towing facility operations shall occur entirely within the enclosed building.

15. All tow truck and towed/impounded vehicles shall be parked and stored indoors and shall not be parked or stored within required parking stalls or within the public right of way.

16. Outdoor storage of vehicles is prohibited.

17. Loading and unloading of vehicles shall occur entirely within the approved loading area, as defined and designated in the application materials.

18. If temporary parking of tow trucks occurs outside of the building while the tow trucks are awaiting deployment, parking is prohibited within required parking stalls, and the parking area shall be screened by a six-foot-high decorative masonry wall, landscaped hedge, or combination thereof, subject to the approval of the Community Development Director. Open fencing, including chain link and wrought iron, shall not constitute adequate screening.

19. The indoor vehicle impound and indoor towing facility business shall be operated in compliance with all provisions of Chapters 9-40 (Design Regulations and Standards) and 9-74 (Property Maintenance).

20. All indoor vehicle impound and indoor towing facilities shall provide adequate internal circulation for the movement of vehicles, and safe ingress and egress points from buildings and public streets, subject to review and approval by the Community Development Director.

21. Wrecking, salvaging, scrapping, sale of vehicles or vehicle parts, or the dismantling of vehicles (except pursuant to law enforcement investigation) are prohibited.

22. The Applicant shall submit a landscape and irrigation plan, consistent with the requirements of LHMC 9-46 and 9-47 for the landscape renovations completed at the subject site and pass final inspection within six months of approval of this Permit.

23. The Applicant shall obtain all required approvals and pass final inspections for installed signage at the subject site within six months of approval of this Permit.

24. The Applicant shall secure applicable building permits for all unpermitted construction already completed at the subject property and prior to the commencement of any further work for which permits are required (including addition of an antenna, if applicable), as required by Section 105 of the 2016 California Building Code. Building permits for the unpermitted construction at the subject site must be pulled and finaled prior to issuance of an updated Certificate of Use and Occupancy for the indoor towing/impound use. Any unpermitted construction must be shown to be compliant with the California Building Codes and the development standards identified in the LHMC, or the plans and the construction must be altered such that the construction is compliant with the California Building Codes and the LHMC.

25. Towed/impounded vehicles may be returned to their respective owners, or other responsible parties, Monday through Saturday from 8:00 AM to 5:00 PM only.

26. If required, the Applicant shall submit plans for and install automatic fire sprinklers, as required by the 2016 California Building Code Section 406.6.3.

27. Any required documents submitted for the purpose of building permit issuance shall be accurately labeled and reflect all work, as required by Section 107 of the 2016 California Building Code.

28. Prior to issuance of building permits, the Applicant shall submit Construction and Demolition Waste Recycling Program paperwork, if applicable, as required by the City of Laguna Hills Ordinance No. 2003-9 and to comply with mandates of CalRecycle.

29. The Applicant shall comply with water quality requirements for general construction in City of Laguna Hills Ordinance 2003-12.

30. The Applicant shall comply with all applicable regulations and requirements of the Orange County Fire Authority.

31. All construction shall comply with the 2016 California Building, Mechanical, Plumbing, and Electrical and Green Building Codes in regards to the applicable occupancy type(s).

32. The Applicant shall be responsible for site compliance with Chapter 11 of the 2016 California Building Code with regard to accessibility requirements. This includes making updates to the site or tenant space, as required by the Building Code.

PASSED, APPROVED, AND ADOPTED this 9th day of January, 2018.

____
MELODY CARRUTH, CHAIR

ATTEST:

____
MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. PA2018- adopted by the Planning Agency of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 9th day of January, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

____
MELISSA AU-YEUNG, CITY CLERK

Attachment 3

Letter of Justification

Statement of Work

Golden Touch is an auto body and towing facility, who is currently serving the city of Stanton. Golden Touch is operating an auto body repair facility in the city of Laguna Hills and would like to request this CPU to open a towing and storage facility in the city of Laguna Hills.

The proposed new business, Golden Touch Towing would have all vehicles stored inside the building and the tow trucks would be either on the road or parked inside.

Golden Touch has been in business in the city of Stanton for over 30 years with no incidents of costumers being hostile or any violence. Our facility is equipped with cameras that record. It has been our experience that there is no need for any other form of security.

Golden Touch has contracts for over 25 years with Auto Club of Southern California, CHP, Orange County Sheriff's Department and La Palma Police Department.

Our office hours are Monday-Friday 8:00 A.M. to 5:00 P.M. and on Saturday from 8 A.M. to 12 P.M closed on Sunday. Golden Touch will operate 3 tow trucks for the Laguna Hills Location. The storage facility will operate a secure storage with recording security cameras. Gates will be added and will show on the plans.

Based on the projections for our towing/impound business 12 indoor parking spaces are sufficient. Each vehicle will be stored for a short period of time. Parking spaces will continually rollover and be available for other vehicles. These 12 spaces, plus our additional indoor area provides adequate storage space for our auto body shop and towing/impound business. All vehicles will be stored inside per the COA's.

A lien will be added after 72 hours, once the lien process is complete, vehicles will be sold to junk yard. There will be no dismantling, wrecking, parts sales or vehicle sales on premises. Drivers will have access to the indoor storage 24 hours a day. Vehicles are to be dropped and secured inside the storage space. Dispatch will occur on premises one antenna needs to be added to the roof and no permit is needed. Tow trucks will be parked inside when not in use.

All activities will occur inside the building, tow trucks will back in to load or unload then go forward to exit building.

Sincerely,

Mehdi Motadi

Attachment 4

Plans

NOTES AND SCHEDULES

BUILDING INFORMATION/ CODE ANALYSES

APN: 588-061-16
COUNTY OF ORANGE

USE: AUTOMOTIVE SPRAY BOOTH OPERATIONS
OCCUPANCY: GARAGE REPAIR S-1 & BUSINESS B
CONSTRUCTION: TYPE V-B
NON FIRE-SPRINKLERED BUILDING
STORIES: SINGLE
BUILDING HEIGHT: 20'-0"

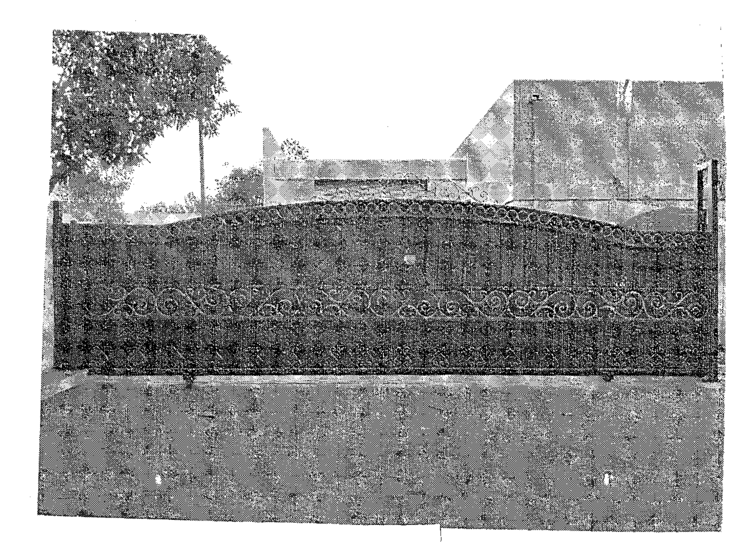
NEW BUILDING AREA: 18437 SQ FT

PIPING CALCULATION:
PIPING LENGTH = (20+5+65+15+20) FT
TOTAL PIPING LENGTH = 125 FT
1,000,000 BTU ÷ 1,100 = 909 CUBIC FEET GAS PER HOUR
MEDIUM PRESSURE (5 PSI) GAS LINE - USE CPC TABLE 1216.2
USE 1 IN PIPE = 3,240 CUBIC FEET GAS PER HOUR
3,240 CFH > 909 CFH ☒

FLOOR AREA/PARKING ANALYSES

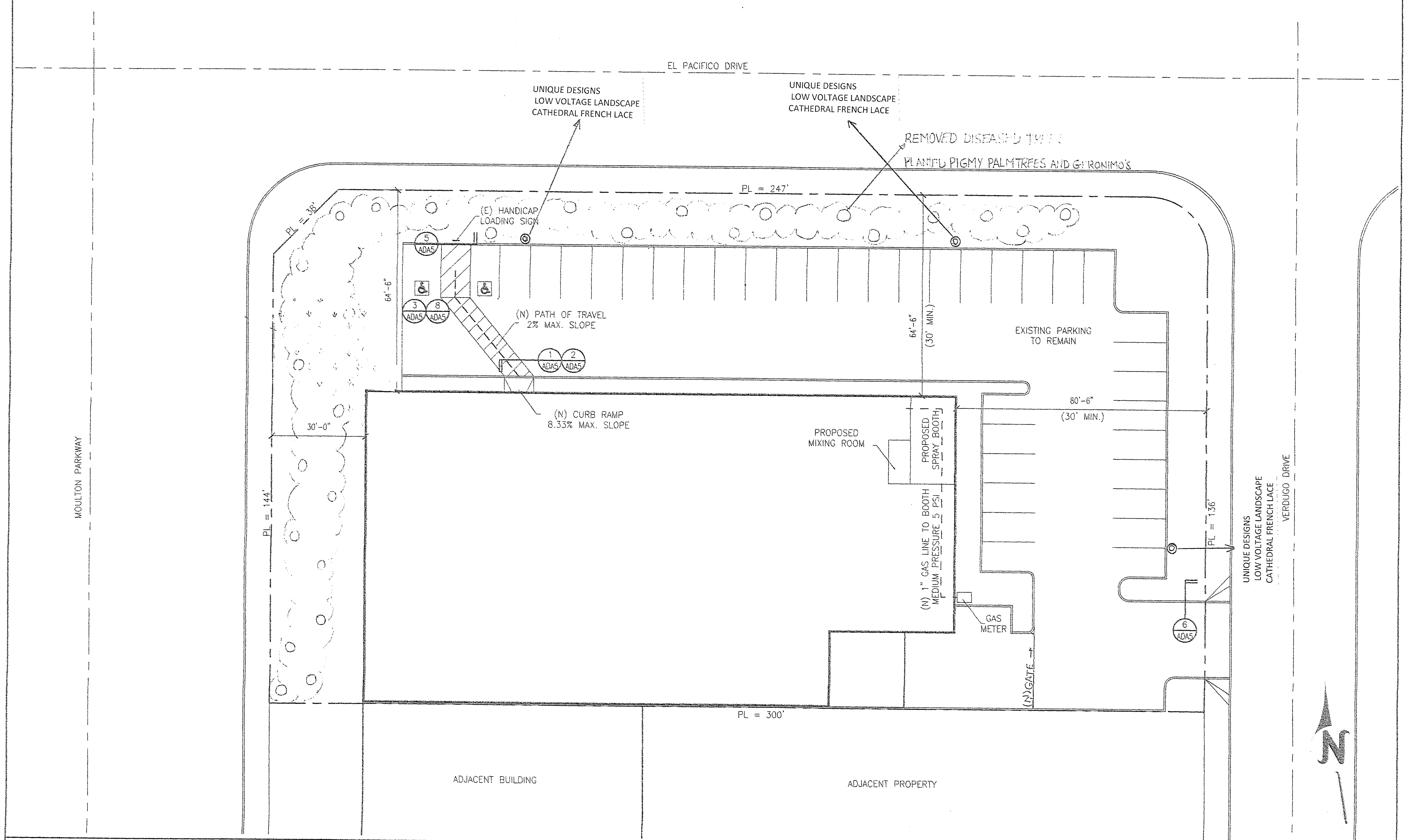
INDOOR PARKING:	5465 SQ FT.
SHOP AREA:	8220 SQ FT.
OFFICE/LOBBY AREA:	3940 SQ FT.
RESTROOM AREA:	362 SQ FT.
HALLWAY AREA:	450 SQ FT.
GROSS FLOOR AREA:	18437 SQ FT

GROSS FLOOR AREA:	18437 SQ FT
RESTROOM AREA:	362 SQ FT
HALLWAY AREA:	450 SQ FT
USABLE AREA:	17625 SQ FT
PARKING REQUIRED (1/500 FT FOR BODYSHOP)	24 SPACES
PARKING REQUIRED (5 FOR TOWING)	5 SPACES
ADDITIONAL ACCESSIBLE SPACES REQUIRED:	2 SPACES
TOTAL REQUIRED PARKING:	31 SPACES
EXISTING PARKING:	37 SPACES
PARKING TO BE REMOVED:	0 SPACES
TOTAL PROVIDED PARKING:	37 SPACES



69"H X 296"W

THE PROPERTY LINES AND SETBACKS ARE TO REMAIN PER PUBLIC RECORDS. THIS SITE PLAN IS FOR REFERENCE ONLY FOR THE AREA OF PROPOSED WORK TO THE EXISTING RESIDENCE, THE EXISTING PROPERTY LINES AND THE EXISTING SETBACKS. THIS SITE PLAN IS NOT TO RE-ESTABLISH NEW BOUNDARY LINES OR NEW SETBACKS. THE PUBLIC RECORDS PREVIOUSLY ESTABLISHED SHALL GOVERN OVER THIS PROPOSED SITE PLAN. ALL DIMENSIONS HEREIN HAVE BEEN FIELD MEASURED AND CAN VARY FROM PUBLIC RECORDS DUE TO HAND MEASUREMENTS TAKEN. ALL OF THE PROPOSED AREA OF WORK HEREIN IS WITHIN THE ESTABLISHED SETBACKS AND ENCROACHMENTS.



SITE PLAN

SCALE : 1"=20'-0"

A

DESIGN & PROFESSIONAL ENGINEERING SERVICES:

EJD ENGINEERING INC.
Ernest J. De Leon, P.E.
14726 Ramona Ave (410-W1)
Chino, CA 91710
Office: 909.517.2451
Fax: 877.795.9778
Ernest@EJDEngineering.com

SHEET DESCRIPTION:

SITE PLAN

CLIENT:

GOLDEN TOUCH AUTO CENTER
22912 EL PACIFICO DRIVE
LAGUNA HILLS, CA 92653

REVISION STATUS:

REV.	DATE	DESCRIPTION
5	07/27/16	COM-4-16-12990-2 3RD CK COMMENTS
4	06/17/16	COM-4-16-12990-2 2ND CK COMMENTS
3	06/13/16	COM-4-16-12990 TI REVIEW COMMENTS
2	04/25/16	CUP PLAN CHECK #2
1	04/15/16	CUP-3-16-3469 COMMENTS/CORRECTIONS

PROJECT NO: 16-077
DRAWN BY: RIL
DATE: 08/24/2017

PROJECT DESCRIPTION & ADDRESS:

22912 EL PACIFICO DR.
LAGUNA HILLS, CA 92653

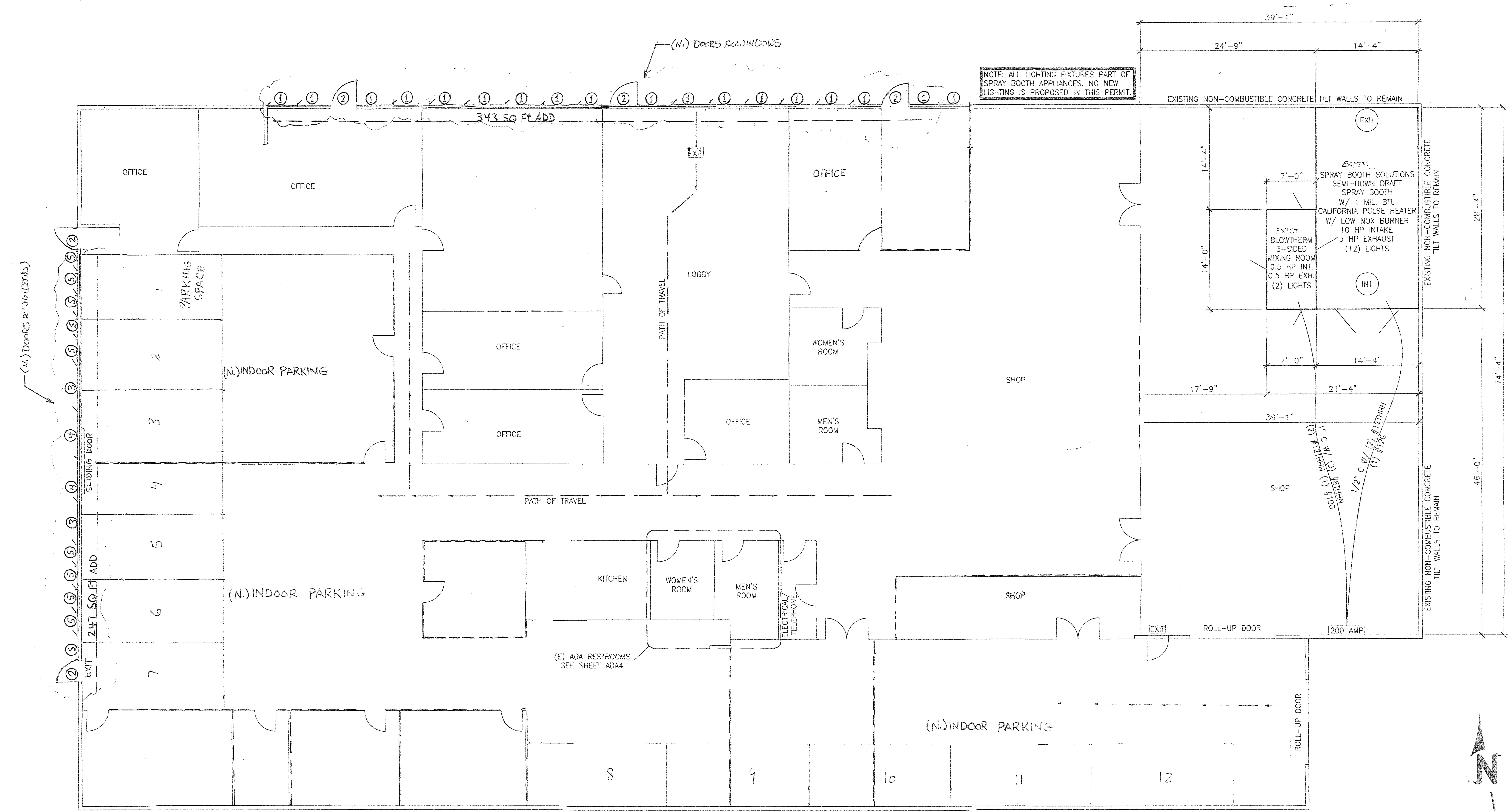
SHEET A1

WINDOW & DOOR SCHEDULE

	SIZE	TYPE	U-FACTOR	SHGC	GLAZING
1	43" X 117"	WINDOW	.32	.25	TEMPERED
2	42" X 117"	DOOR HINGED	.32	.25	TEMPERED
3	59" X 117"	WINDOW	.32	.25	TEMPERED
4	55" X 117"	DOOR SLIDING	.32	.25	TEMPERED
5	37" X 117"	WINDOW	.32	.25	TEMPERED

2013 CAL PLUMBING CODE TABLE 422.1 MINIMUM NUMBER OF PLUMBING FIXTURES FOR MAXIMUM OCCUPANCY LOAD 26 PERSONS: MAXIMUM (13 MALE & 13 FEMALE)		
WATER CLOSETS REQUIRED FIXTURES PER PERSON: STORAGE & WAREHOUSE MALE: 1:100 FEMALE 1:100 OFFICE, LOBBY & HALLWAYS MALE: 1:50 FEMALE 1:15	MALE: (2) REQUIRED (2) PROVIDED	FEMALE: (2) REQUIRED (2) PROVIDED
URINALS REQUIRED STORAGE & WAREHOUSE MALE: 1:35 OFFICE, LOBBY & HALLWAYS MALE: 1:100	MALE: (1) REQUIRED (1) PROVIDED	FEMALE: NOT REQUIRED
LAVATORIES REQUIRED FIXTURES PER PERSON STORAGE & WAREHOUSE MALE: 1:200 FEMALE 1:200 OFFICE, LOBBY & HALLWAYS MALE: 1:75 FEMALE 1:50	MALE: (2) REQUIRED (2) PROVIDED	FEMALE: (2) REQUIRED (2) PROVIDED

DEMO WALLS _ _ _ _



FLOOR PLAN

SCALE : 1/8"=1'-0"

A

DESIGN & PROFESSIONAL ENGINEERING SERVICES:

EJD ENGINEERING INC.
Ernest J. De Leon, P.E.
14726 Ramona Ave (410-W1)
Chino, CA 91710
Office: 909.517.2451
Fax: 877.795.9778
Ernest@EJDEngineering.com

SHEET DESCRIPTION:

FLOOR PLAN

CLIENT:

GOLDEN TOUCH AUTO CENTER

22912 EL PACIFICO DRIVE
LAGUNA HILLS, CA 92653

REVISION STATUS:

REV.	DATE	DESCRIPTION
5	07/27/16	COM-4-16-12990-2 3RD CK COMMENTS
4	06/17/16	COM-4-16-12990-2 2ND CK COMMENTS
3	06/13/16	COM-4-16-12990 TI REVIEW COMMENTS
2	04/25/16	CUP PLAN CHECK #2
1	04/15/16	CUP-3-16-3469 COMMENTS/CORRECTIONS

PROJECT NO: **16-077**

DRAWN BY: **RIL**

DATE: **08/24/2017**

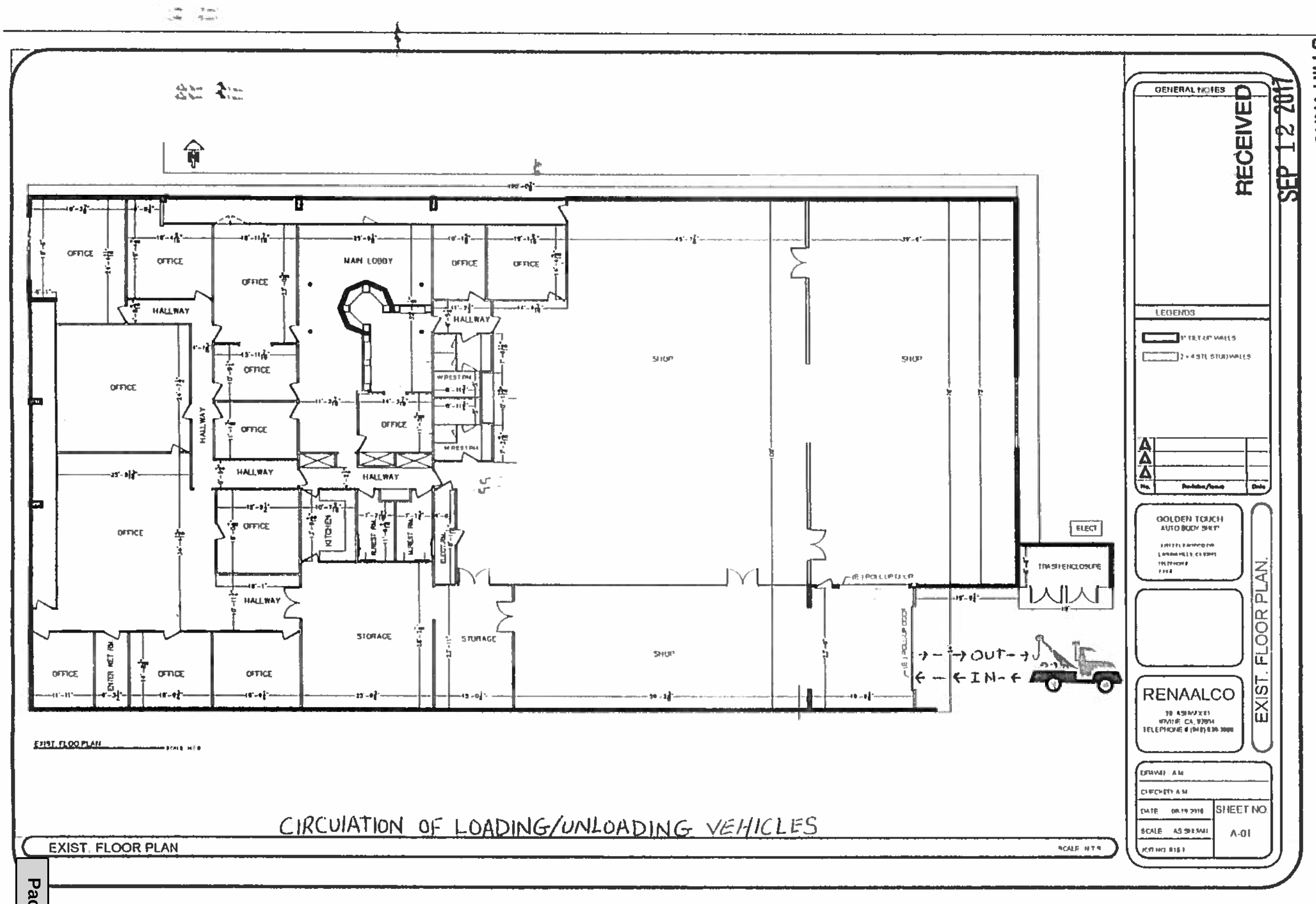
PROJECT DESCRIPTION & ADDRESS:

22912 EL PACIFICO DR.
LAGUNA HILLS. CA 92653

SHEET A2

Attachment 5

Loading/Unloading Plan



OFFICE
MAIN LOBBY
HALLWAY
KITCHEN
STORAGE
SHOP
TRASH ENCLOSURE
ELECT
OUT
IN
EXIST. FLOOR PLAN
CIRCULATION OF LOADING/UNLOADING VEHICLES
EXIST. FLOOR PLAN
GENERAL NOTES
RECEIVED
SEP 12 2017
CITY OF LAGUNA HILLS
LEGENDS
GOLDEN TOUCH
AUTO BODY SHOP
EXIST. FLOOR PLAN.
RENAALCO
SHEET NO.
A-01
DRAWN A.M.
CHECKED A.M.
DATE
SCALE

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: January 9, 2018

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Assistant to the City Manager/City Clerk

ISSUE: Appointment of City Manager and Approval of a Proposed City Manager Employment Agreement

RECOMMENDATION: That the City Council:

(1) Receive and file an oral report providing a summary of the Council-designated labor representative's recommendations concerning proposed changes in salary and benefits for Donald J. White, a local agency executive, to serve as City Manager; and

(2) Appointment of Donald J. White as City Manager of the City of Laguna Hills, effective February 3, 2018, to serve at the direction and pleasure of the City Council, pursuant to Laguna Hills Municipal Code Chapter 2-08; and

(3) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, Appointing Donald J. White as City Manager and Approving and Authorizing the Mayor to Execute a City Manager Employment Agreement;" and

(4) Direct the City Clerk to administer the Oath of Office.

SUMMARY:

The City Council previously directed the commencement of an internal recruitment process to assist in filling the City Manager position, which will become vacant on February 2, 2018, by the announced retirement of City Manager Bruce E. Channing. The recruitment and selection process has been completed, which resulted in the City Council identifying and selecting Assistant City Manager Donald J. White as the most

qualified candidate for the position. The City Council's designated labor representative has now completed final negotiations with Mr. White over salary, benefits, and terms and conditions of employment, and the City Attorney has prepared a proposed City Manager Employment Agreement based on those negotiated terms and conditions. Therefore, it is in order for the City Council to appoint Donald J. White to serve as the City Manager, effective February 3, 2018, to approve and authorize the Mayor to execute the proposed City Manager Employment Agreement, and to direct the City Clerk to administer the Oath of Office.

BACKGROUND:

After 26 years of service as City Manager of the City of Laguna Hills, Bruce E. Channing announced his retirement and submitted a letter of resignation to the City Council dated November 21, 2017. On November 28, 2017, the City Council accepted Mr. Channing's resignation effective February 2, 2018, directed City staff to begin the process of selecting a new City Manager by exploring the possibility of filling the position through an internal recruitment process, and appointed Mayor Sedgwick to serve as the Council-designated labor negotiator for purposes of facilitating the recruitment process and contract negotiations required to fill the position. Mr. Channing's last day of employment with the City of Laguna Hills will be February 2, 2018, as stated in his letter of resignation.

As directed by the City Council, over the past several weeks the City has engaged in an internal recruitment process for selecting a qualified candidate to fill the position. The internal recruitment process has been completed, which resulted in the City Council identifying and selecting Assistant City Manager Donald J. White as the most qualified candidate for the position. On December 12, 2017, the City Council reached a tentative agreement on proposed terms and conditions of employment with Mr. White and unanimously voted to appoint Mr. White as the City's next City Manager, subject to the Council-designated labor negotiator and the City Attorney reaching final agreement with Mr. White regarding proposed terms and conditions of his continued employment with the City and appointment as City Manager, and subject to preparation by the City Attorney and approval by the City Council of a new employment agreement. The City Council previously directed that a proposed City Manager Employment Agreement with Mr. White be negotiated, prepared, and agendized for final review and approval by the City Council at its regularly scheduled meeting on January 9, 2018.

The City Council's designated labor representative has completed negotiations with Mr. White, proposed terms and conditions of Mr. White's employment were previously presented to Council for review and consideration, and the City Attorney has prepared a proposed City Manager Employment Agreement pursuant to the tentative agreement reached and based on the negotiated terms and conditions. Mr. White has had the proposed employment agreement reviewed and approved by his own attorney. Therefore, it is now in order for the City Council to formally appoint Donald J. White to serve as City Manager, effective February 3, 2018, and to approve the proposed City Manager Employment Agreement.

Pursuant to Government Code Section 36506, the City Council is required to establish the compensation of the City Manager by Resolution, which appointed official holds office at the pleasure of the City Council. A copy of the proposed Resolution appointing Donald J. White as City Manager is attached hereto as **Attachment "A"**. Pursuant to Laguna Hills Municipal Code (LHMC) Chapter 2-08, the City Council is authorized to appoint a City Manager and may provide for such employment by approving the proposed City Manager Employment Agreement, which is attached hereto as **Exhibit "1" to Attachment "A".**

SB 1436, which took effect on January 1, 2017, requires the governing bodies of local agencies to "orally report a summary of a recommendation" for changes in the salaries, salary schedules, or compensation paid in the form of fringe benefits of local agency executives before taking a final vote on the proposed changes. SB 1436 specifies that the summary of the recommendation must be made "during the open meeting in which the final action is to be taken." In accordance with this new state law requirement, prior to the City Council taking final action to approve the proposed employment contract, the City Attorney will make the required oral report in accordance with Government Code Section 54953(c)(3).

CONCLUSION:

As a result of the completion of the selection process, and consistent with prior City Council direction, it is recommended that the City Council adopt a Resolution: (a) appointing Donald J. White as City Manager to serve at the direction and pleasure of the City Council, pursuant to LHMC Chapter 2-08; and (b) approving and authorizing the Mayor to execute a City Manager Employment Agreement with Donald J. White.

FISCAL IMPACT:

The City Manager will be paid an annual base salary of $258,000 and will receive the same benefits provided to other Executive Management employees pursuant to Resolution No. 2016-11-22-3, as may be amended. These benefits include, but are not limited to, health insurance (medical, dental, and vision), paid and floating holidays, supplemental retirement contribution, retiree health savings plan, group life and disability insurance, sick leave and bereavement leave. The City Manager will be enrolled in the first tier pension formula of 2% @ 60 Program, and will be responsible for paying the full Employee/Member Contribution, currently set at 7% of salary. The attached City Manager Employment Agreement details all elements of the proposed compensation plan for the City Manager position. Total proposed annual compensation is $334,262. As indicated above, an oral report summarizing the Council-designated labor negotiator's recommended compensation plan for the position will be made by the City Attorney during open session before final action is taken.

ATTACHMENTS:

- Attachment A - Proposed Resolution
- Exhibit 1 to Attachment A - City Manager Employment Agreement

RESOLUTION NO. 2018-01-09-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPOINTING DONALD J. WHITE AS CITY MANAGER AND APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CITY MANAGER EMPLOYMENT AGREEMENT

WHEREAS, at its November 28, 2017 regular meeting, the City Council accepted the resignation of City Manager Bruce E. Channing, after 26 years of service to the City, effective February 2, 2018; and

WHEREAS, following completion of an internal recruitment process, the City Council identified and selected Assistant City Manager Donald J. White as the most qualified candidate for the position; and

WHEREAS, pursuant to Laguna Hills Municipal Code Chapter 2-08, the City Council now desires to appoint Donald J. White as the City Manager of the City of Laguna Hills and to retain Mr. White and establish the terms and conditions for such employment by approving the attached City Manager Employment Agreement; and

WHEREAS, pursuant to Government Code Section 36506, the City Council is required to establish the compensation of the City Manager by resolution, which appointed official shall hold office at the direction and pleasure of the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. Donald J. White is hereby appointed City Manager of the City of Laguna Hills to serve at the direction and pleasure of the City Council, effective February 3, 2018, pursuant to Laguna Hills Municipal Code Chapter 2-08.

SECTION 3. The City Council hereby approves and authorizes the Mayor to execute the City Manager Employment Agreement, dated February 3, 2018, which employment agreement is attached hereto as Exhibit “1” and is incorporated herein by reference, with an effective date and term of office commencement date of February 3, 2018.

SECTION 4. The City Clerk is directed to administer the Oath of Office.

PASSED, APPROVED, AND ADOPTED this 9th day of January 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2018-01-09-x adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 9th day of January 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

EMPLOYMENT AGREEMENT
CITY MANAGER

THIS EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into, to be effective February 3, 2018 ("Effective Date"), by and between the CITY OF LAGUNA HILLS, a California municipal corporation organized and existing under the laws of the State of California (hereinafter referred to as "City"), and DONALD J. WHITE, an individual (hereinafter referred to as "White" or "City Manager"). City and White are sometimes hereinafter individually referred to as "party" and are hereinafter collectively referred to as the "parties."

RECITALS

A. In order to ensure that its governmental responsibilities are met at all times, City must attract and retain in its employment executive management personnel who exhibit the highest degree of knowledge, experience, technical ability, professionalism, and leadership qualities.

B. In order to attract and retain in its employment a city manager who possesses those qualities and the experience necessary to continue to fulfill the City's immediate and long-term goals and policy objectives, the City Council of the City has determined that it is advisable to retain and appoint Donald J. White as City Manager and to enter into this Agreement. All City actions referred to in this Agreement shall mean actions taken by a majority of the City Council.

C. Donald J. White was hired by the City on December 20, 1991 as the Director of Administrative Services and has been employed as the Assistant City Manager of the City since July 1, 1995. In recognition of White's qualifications, performance history, and his dedication and loyalty to the City, as demonstrated by his leadership, knowledge, experience, technical abilities, and professionalism over the course of his thirty-seven year career in public administration, including his exemplary service to the City for the past twenty-six years, the City Council now wishes to retain White as City Manager.

D. It is the desire of the City Council to retain the professional services of Donald J. White to serve as City Manager of the City of Laguna Hills and to provide for certain compensation and benefits, establish conditions of employment, and set working conditions for such services.

E. City and White, therefore, desire to enter into this Agreement in order to specify the terms and conditions of White's employment with the City as City Manager.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

Section 1: Appointment and Term

A. City hereby appoints and retains White to serve as City Manager of the City of Laguna Hills and White hereby accepts such employment with City beginning on February 3, 2018, and continuing until City Manager or City Council terminates this Agreement pursuant to Section 7 below. The City Manager is employed by City in an "at-will" capacity serving at the pleasure of the City Council. Either the City Council or City Manager may terminate this Agreement at any time with or without cause and in its or his sole discretion, as set forth in this Agreement.

B. The Term of this Agreement shall be for three years, commencing on February 3, 2018 and ending on February 3, 2021, unless extended or terminated as provided herein. On February 3, 2019, and annually on each succeeding February 3rd while this Agreement is effective, the Term of this Agreement shall be automatically extended for one additional year. For example, on February 3, 2019 the Term of this Agreement shall be automatically extended until February 3, 2022; on February 3, 2020 the Term of this Agreement shall be extended until February 3, 2023; and so on, unless prior to such date by a majority vote of the total membership of the City Council in attendance at a lawfully called meeting, the City Council takes formal action to declare its intention to not extend this Agreement for one additional year. Any such decision by the City Council to not extend the Term by one additional year shall modify only Section 1(B) of this Agreement and shall not constitute a termination for purposes of Section 7(A) of this Agreement. The parties make no representation with respect to whether such action by the City Council would amount to an adverse employment action.

Section 2: General Duties

White shall serve as the City Manager of the City of Laguna Hills. In that capacity, White shall perform all of the city manager duties specified by the Laguna Hills Municipal Code, the Government Code, and any other applicable laws of the State of California and shall perform the functions and duties as the administrative head of the government of the City of Laguna Hills. As City Manager, White shall also perform such other functions and duties, not inconsistent with the terms of this Agreement, as the City, by and through its duly elected City Council, may legally and properly assign to that position.

Section 3: Devotion to City's Business and Hours of Work

A. White's position as City Manager is considered a full-time position. City Manager shall devote his time, ability, and attention to the business of the City during the term of this Agreement.

B. Except as otherwise provided herein, City Manager shall not engage in any other business, educational, or professional pursuits whatsoever, or directly or indirectly render any service of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise (excluding honoraria or the reimbursement of expenses), without the prior consent of the City Council. White may expend reasonable amounts of time for educational, charitable, personal, or professional activities which shall not be deemed a breach of this Agreement if those activities do not conflict or materially interfere with the professional services required under this Agreement; such limited activities shall not require the prior consent of the City Council.

C. Nothing in this Agreement prohibits City Manager from making passive personal investments or conducting private business affairs, if those activities are not deemed to be a conflict of interest under state law or conflict or materially interfere with the professional management services required under this Agreement.

D. City Manager's duties may involve expenditures of time in excess of the regularly established workday or in excess of a forty-hour workweek and may also include time outside normal office hours, including but not limited to attendance at City Council meetings. City Manager is classified as an exempt employee under the Fair Labor Standards Act ("FLSA") and shall not be entitled to any additional compensation for hours worked in excess of forty in a work week or eight hours per calendar day.

Section 4: **Performance Evaluation**

The City Council shall review and evaluate the performance of the City Manager annually in October or November during the term of this Agreement. All aspects of this annual review are private personnel matters within the meaning of the Brown Act and are to be conducted in Closed Session of the City Council. Upon execution of this Agreement by both parties, the City Council shall schedule time, and allocate reasonable funds if necessary, to develop mutually agreeable procedures and criteria for these reviews, as well as substantive goals, objectives, and performance standards which will be applied during such annual performance evaluations.

The Mayor, City Council, and the City Manager shall be jointly responsible for the creation of procedural and substantive guidelines for these annual reviews in the first year of this Agreement. After the first annual performance review, the goals, objectives, and performance standards may be modified collaboratively between White and the City Council. Each annual review is to include a written statement of findings which must be provided to the City Manager, who shall be afforded an adequate opportunity to discuss this evaluation with the Mayor and City Council and thereafter to submit a written statement in response.

The City Council may retain, at its sole discretion, the services of a professional facilitator or qualified labor negotiator, or other qualified professional, to assist the City Council in completing this annual performance evaluation process. Failure of the City Council to review and evaluate the performance of the City Manager pursuant to this section shall not affect the right of the City to terminate the City Manager's employment and shall not be considered a breach of this Agreement. Following each annual performance evaluation, the City Council may, at its sole discretion, grant the City Manager a performance bonus equal to 0 – 10% of his then-current annual base salary which, if awarded, must be approved by minute action and ratified by resolution.

Section 5: **Salary**

A. As compensation for the professional services to be performed hereunder, effective February 3, 2018, City agrees to pay City Manager an annual base salary of two hundred fifty eight thousand dollars ($258,000), subject to deductions and withholdings of any and all sums required for federal or state income tax, other deductions or withholdings required by then current state, federal or local law, and paid bi-weekly in accordance with the City's established accounting and payroll practices at the same time and in the same manner as other employees of the City are paid. The City shall also deduct from his annual base salary any applicable sums that City Manager is obligated to pay because of participation in plans or programs described in Section 6 of this Agreement and City Manager hereby authorizes such deductions.

B. Any increases in the annual base salary of City Manager, to the extent provided, may be made effective at any time and shall be made in the sole discretion of the City Council. Increases in City Manager's annual base salary approved by the City Council shall not require an amendment to this Agreement to be effective. Such increases may be set forth in an annual employee salary resolution or minute action approved by the City Council and ratified by resolution at a regularly scheduled meeting of the City Council.

C. City Manager’s annual base salary shall not be subject to or affected by any Cost of Living or Consumer Price Index adjustments approved by the City Council to the salaries of other Executive Management employees.

Section 6: **Benefits and Leaves of Absence**

A. Employee Benefits

Except as expressly provided for in this Agreement, City Manager shall be entitled to receive the same benefits provided to other Executive Management employees pursuant to Resolution No. 2016-11-22-3, as may be amended from time to time by the City Council. These benefits include, but are not limited, to health insurance (medical, dental, vision), holidays, supplemental retirement contribution, retiree health savings plan, group life and disability insurance, sick leave, and bereavement leave.

B. Vacation

City Manager shall accrue vacation at the rate of twenty-five paid days each fiscal year (in addition to recognized regular and floating City holidays). The parties agree that this benefit includes and may be used for time off due to illness (whether personally or of a family member). During the term of this Agreement, White may not carryover more than forty days of accrued vacation from one fiscal year to the next. At any time during the term of this Agreement, White shall be entitled to cash-out accrued vacation days, provided that at least ten accrued vacation days remain available. The amount paid to White shall be based on White's annual base salary at the time the vacation hours/days are cashed out. Upon separation from employment, White shall be paid for all accrued and unused vacation time available at that time.

C. Retirement Benefits

1. City Manager shall receive retirement benefits through the California Public Employment Retirement System ("PERS"). City Manager is a Tier 1 employee as defined in Resolution No. 2016-11-22-3 and shall continue to be enrolled in the 2% at 60 program. City Manager agrees to pay the full cost of the employee's contribution, currently set at 7% of salary.

2. City Manager is entitled to participate in the International City Managers Association ("ICMA") 457 deferred compensation plan. As part of City Manager's annual compensation, City agrees to provide a Section 457 deferred compensation program for City Manager which will be administered by ICMA and to pay ten thousand dollars ($10,000) per year (effective January 1, 2019) into such program for White's benefit. Beginning January 1, 2019, this amount shall be paid in a lump sum in January of each calendar year thereafter during the term of this Agreement.

D. Vehicle

City shall provide City Manager with a City leased or owned vehicle of a make and model deemed acceptable by the City, pursuant to Laguna Hills Municipal Code Section 3-08.130, as may be amended, during the Term of this Agreement. City shall be responsible for all operating costs of such vehicle including, but not limited to, all insurance, maintenance, fuel, and repair. As part of his annual compensation, City Manager shall be allowed unrestricted personal use of such vehicle when not engaged in City business, subject to appropriate Internal Revenue Service reporting requirements.

E. Professional Development

City acknowledges its interest in the continuing professional development of City Manager and agrees to pay all reasonable and appropriate expenses associated with professional dues and subscriptions and/or attendance at conferences, training opportunities, and meetings of organizations concerned with the city manager and/or the public administration profession. Such expenses must be approved in advance by the City Council during its biennial budget process.

F. General Business Expenses

The City recognizes that City Manager may incur expenses of a non-personal, job-related nature that are reasonably necessary to City Manager's service to the City. The City agrees to either pay such expenses in advance or to reimburse the expenses, so long as the expenses are incurred and submitted according to the City's established expense reimbursement policies and procedures, or such other procedure as may be designated by the City Council. To be eligible for reimbursement, all expenses must be supported by documentation meeting the City's normal requirements and must be submitted within time limits established by the City.

G. Administrative Leave Pending an Investigation

Because City Manager is an "at-will" employee, the City is not obligated to pay City Manager pending an investigation into any alleged misconduct by the City Manager. Notwithstanding the foregoing, in the event that the City Council determines, in its sole discretion, that it is in the best interest of the City for City Manager to be placed on paid administrative leave pending such an investigation, City Manager shall fully reimburse any salary provided for that purpose if the misconduct for which the City Manager was under investigation results in the City Manager being convicted of a crime involving an abuse of his office or position as defined in Section 7(A)(2) of this Agreement. City Manager shall fully reimburse such salary no later than six months after such conviction.

Section 7: Termination and Separation Pay

A. Termination by City Without Cause or For Reasons Other Than "Cause"

1. If City terminates this Agreement (thereby terminating City Manager's employment) without cause or for reasons other than "cause" as defined in Paragraph B below upon the vote of a majority of the total membership of the City Council in attendance at a lawfully called meeting, and only if City Manager timely executes and delivers to City an original "Separation Agreement and General Release" in the form attached hereto as Attachment 1, and does not thereafter timely exercise his right to revoke said Separation Agreement and General Release, the City shall pay City Manager a lump sum severance benefit equal to the monthly salary of City Manager at the time of separation multiplied by the number of months left on the unexpired term of the employment contract, not to exceed nine months of salary. In addition, City shall continue to pay for nine months the monthly group health and medical insurance benefits as provided under the then applicable salary and benefits resolution (such severance benefits to be referred to collectively as "Separation Pay"), beginning on the date that the revocation period for the Separation Agreement has expired.

2. Such Separation Pay is considered a cash settlement related to the termination of City Manager and shall therefore be fully reimbursed to the City by City Manager if the City Manager is convicted of a crime involving an abuse of his office or position. Abuse of office or position shall have the meaning set forth in Government Code section 53243.4, as may be amended, of either (1) an abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority or (2) a crime against public justice, including, but, not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code. City Manager shall fully reimburse such Separation Pay no later than six months after such conviction.

B. Termination by City For Cause

If the City terminates this Agreement (thereby terminating City Manager's employment) with cause, City Manager shall not be entitled to any Separation Pay. As used in this Agreement, "cause" shall mean any of the following:

1. Conviction of a felony; or

2. Conviction of a misdemeanor arising out of City Manager's duties or performance under this Agreement; or

3. Misappropriation of public funds; or

4. Willful abandonment of duties consisting of the failure to report to work for five consecutive working days (for reasons not medically related) and not notifying staff and the City Council of his leave status; or

5. A willful and intentional failure to carry out materially significant and legally constituted policy decisions of the City Council made by the City Council; or

6. Any other intentional or negligent action or inaction by City Manager that: (a) materially and substantially impedes or disrupts the operations of the City or its organizational units; (b) is detrimental to employees or public safety; (c) violates properly established rules or procedures of the City causing a material and substantial adverse impact on the City; or (d) has a material and substantial adverse effect on the City's interests as clearly defined and delineated by properly established City Council actions, policies, regulations, or City ordinances.

C. Termination by City Before or After an Election for Council Membership

Except as provided otherwise in Section 7(B) above, during the 90-day period immediately preceding and 180-days following the date of a regular or special municipal election for City Council membership, City shall take no action, whether immediate or prospective, to remove, suspend, terminate, or request the resignation City Manager. City acknowledges that this period is longer, and that this provision is broader, than that specified in the Laguna Hills Municipal Code, but provides said period and provision nevertheless as an additional inducement for City Manager to enter into this Agreement.

D. Termination by City Manager

City Manager may resign from his employment as City Manager and terminate this Agreement at any time. City Manager agrees, if practicable, to give the City Council at least forty-five days advance written notice of his decision to resign. City Manager shall not be entitled to any Separation Pay if he resigns. City Council may choose to waive this forty-five day notice period and/or place City Manager on paid administrative leave through the effective date of the resignation.

The City Council's waiver of this period shall not change the City Manager's resignation to a termination.

E. Notice of Termination

In any event, City shall provide City Manager with not less than thirty days' written notice of its decision to terminate this Agreement (regardless of the reason(s) for the termination), and as provided by the provisions of the Ralph M. Brown Act, California Government Code Section 54950 *et seq*.

F. Constructive Termination

If at any time during the Term of this Agreement City refuses, following written notice, to comply with any provision benefiting City Manager, or City Manager resigns following a request that he resign made by a majority of the total membership of the City Council in attendance at a lawfully called meeting, then City Manager shall be deemed to be "terminated" as of the date of such refusal or request within the meaning and context of Section 7(A) of this Agreement.

Section 8: Confidentiality

City Manager acknowledges that in the course of his employment contemplated herein, City Manager will be given or will have access to confidential and proprietary documents and information relating to the City, its residents, businesses, employees, and customers ("Confidential Information"). Such Confidential Information may include, but is not limited to, all information given to or otherwise accessible to City Manager that is not public information or would be exempt from public disclosure as confidential, protected, exempt, or privileged information. City Manager shall hold the Confidential Information in trust for the City's benefit and shall not disclose the Confidential Information to others without the express written consent of the City. All Confidential Information shall be promptly returned to the City immediately upon the effective date of any termination or resignation.

Section 9: Indemnification

A. Except for an act of misappropriation of public funds, or an indictment, the filing of an information, a plea of guilty or a plea of nolo contendre for a crime involving moral turpitude, City shall defend, hold harmless and indemnify City Manager against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of his employment as City Manager, using legal counsel of the City's choosing in its sole discretion, in accordance with the provisions of California Government Code Section 825, applicable provisions of the Government Claims Act, and other applicable law. In the event there is a conflict of interest between the City and City Manager in such a case such that qualified independent counsel is required for City Manager, the City shall pay the reasonable fees of such qualified independent counsel, who shall be mutually chosen by the parties. City may compromise and settle any claim or suit against the City Manager and pay the amount of any settlement or judgment rendered therefrom.

B. In the event that the City provides funds for the legal criminal defense of the City Manager, City Manager shall fully reimburse said funds to the City if City Manager is convicted of a crime involving an abuse of his office or position as defined in Section 7(A)(2) of this Agreement. City Manager shall fully reimburse to City such criminal legal defense fees no later than six months after such conviction.

Section 10: <u>Notices</u>

Any notices to be given hereunder by either party to the other shall be in writing and may be transmitted by personal delivery, electronic mail, registered mail or certified mail. Notices delivered personally or by electronic mail shall be deemed communicated as of the date of delivery. Mailed notices shall be deemed communicated as of the date they are postmarked.

Any notices required by this Agreement shall be addressed as follows:

IF TO CITY:	Laguna Hills City Council City of Laguna Hills Attn.: City Clerk 24035 El Toro Road Laguna Hills, California 92653
IF TO CITY MANAGER:	Donald J. White [*Address on File with Human Resources Department*]

Section 11: <u>Entire Agreement</u>

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of Donald J. White by City and contains all of the covenants and agreements between the parties with respect to that employment in any manner whatsoever. Each party to this Agreement acknowledges that no representation, inducement, promise, or agreement, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or blinding on either party.

Section 12: <u>Modifications</u>

Any modification of this Agreement shall be effective only if it is in writing and signed by the parties.

Section 13: <u>Effect of Waiver</u>

The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

Section 14: Partial Invalidity

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in anyway.

Section 15: Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California and all applicable City regulations, resolutions, and ordinances.

Section 16: Bonding

City shall bear the full cost of any fidelity or other bonds required of the City Manager under any law or ordinance, or any insurance policies in lieu thereof.

Section 17: City's Policies and Procedures

The terms and conditions of City Manager's employment, including additional employment benefits of City Manager not specifically provided for in this Agreement, shall be governed by City's personnel policies and procedures, salary and benefits resolutions, and administrative regulations, to the extent not inconsistent with the provisions of this Agreement. In the event of any such inconsistency or conflict, the provisions of this Agreement shall govern.

Section 18: City Manager's Independent Review

White acknowledges that he has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. White acknowledges that he has made an independent judgment upon the financial and legal effects of the Agreement and has not relied upon representation of the City, its elected or appointed officers and officials, agents or employees, other than those expressly set forth in this Agreement. White acknowledges that he has been advised to obtain, and has availed himself of, independent legal counsel with respect to the terms, conditions and provisions of this Agreement. As an additional inducement for White to enter into this Agreement, City agrees to reimburse White up to one thousand dollars for any legal services obtained by White in connection with the review of this Agreement by independent legal counsel.

Section 19: Enforcement

The prevailing party in any action brought to enforce this Agreement or to resolve any dispute or controversy arising under the terms and conditions hereof shall be entitled to payment of reasonable attorneys' fees and costs.

Section 20: Authority to Enter Agreement

The Mayor of the City of Laguna Hills has the express authority to execute this Agreement with White pursuant to City Council Resolution No. 2018-__________.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date reflected above.

"CITY"
CITY OF LAGUNA HILLS, a California municipal corporation

By: ______________________________
MELODY CARRUTH,
Mayor

ATTEST:

____
MELISSA AU-YEUNG,
Assistant to the City Manager/City Clerk

APPROVED AS TO FORM:

____
GREGORY E. SIMONIAN,
City Attorney

"CITY MANAGER"
DONALD J. WHITE, an individual

____
DONALD J. WHITE

ATTACHMENT 1

SEPARATION AGREEMENT AND GENERAL RELEASE

This Separation Agreement and General Release ("Separation Agreement") is entered into by Donald J. White ("City Manager") and City of Laguna Hills ("Employer"), in light of the following facts:

RECITALS

A. City Manager's employment by Employer, and the Employment Agreement under which he was employed, have been terminated effective ________________, 20__.

B. City Manager is hereby informed that he has 21 days from the effective date of the termination when he received this Agreement to consider it. Employer hereby advises City Manager to consult with an attorney before signing this Agreement.

C. City Manager acknowledges that for a period of 7 days following the signing of this Separation Agreement ("Revocation Period"), he may revoke this Separation Agreement. This Separation Agreement shall not become effective or enforceable until the Revocation Period has expired.

D. City Manager acknowledges that the Salary Payment referenced in paragraph 1 of this Separation Agreement represents all compensation due and payable to him through his termination. City Manager also acknowledges that Employer has made this Salary Payment without regard to whether he signs this Separation Agreement. The Salary Payment does not constitute consideration for this Separation Agreement.

E. City Manager acknowledges that the Separation Pay referenced in paragraph 2 of this Separation Agreement is in excess of all amounts that are due and owing to him as a result of his employment by Employer.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **<u>Receipt of Salary Payment</u>**. City Manager hereby acknowledges receipt of a check for all salary and accrued leave owing ("Salary Payment") from Employer as of the effective date of this Separation Agreement (set forth in Recital A, above) pursuant to the Employment Agreement between City Manager and Employer.

2. **<u>Separation Pay</u>**. Following return to Employer of this Separation Agreement signed by City Manager and expiration of the Revocation Period, not having been revoked by City Manager, Employer shall pay the applicable Separation Pay provided for in the Employment

Agreement between City Manager and Employer.

3. **General Release**. In consideration of the Separation Pay to be given to City Manager , and other good and valuable consideration, City Manager hereby releases and discharges Employer and its past and present elected and appointed officials and officers, employees, representatives, agents and attorneys, from all rights, claims, causes of action, and damages, both known and unknown, in law or in equity, concerning and/or arising out of his employment with Employer which he now has, or ever had, including but not limited to any rights, claims, causes of action, or damages arising under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Fair Labor Standards Act of 1938, the Americans with Disabilities Act, the Meyers-Milias Brown Act, the Vocational Rehabilitation Act of 1973, the Family and Medical Leave Act of 1993, the California Moore-Brown-Roberti Family Rights Act, the California Unruh Civil Rights Act, the California Fair Employment and Housing Act, or the California Labor Code, under any other federal, state, or local employment practice legislation, or under federal or state common law, including wrongful discharge, express or implied contract, breach of public policy, or violation of due process rights.

City Manager hereby waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of California. City Manager understands and acknowledges the significance and consequences of this specific waiver of Section 1542. Section 1542 of the Civil Code of California states as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of Employer and its past and present elected and appointed officials and officers, employees, representatives, agents and attorneys, City Manager expressly acknowledges that this General Release is intended to include in its effect, without limitation, all claims which he does not know or suspect to exist in his favor.

City Manager further acknowledges that he has read this General Release, that he understands that this is a general release, and that he intends to be legally bound by the same.

4. **Fees and Costs**. City Manager and Employer agree that in the event of litigation relating to this Separation Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

5. **Continuation of Certain Provisions of Employment Agreement.** Employer acknowledges its continuing duty to indemnify City Manager in accordance with Section 9 of the Employment Agreement notwithstanding this Separation Agreement. Employer further acknowledges its duty with respect to City Manager to comply with any and all provisions of the

Laguna Hills Municipal Code conferring benefits on former employees, if any.

6. **Complete Agreement**. Except for the applicable provisions of the parties' Employment Agreement, which are referenced herein, this is the entire agreement between City Manager and Employer with respect to the subject matter hereof and this Separation Agreement supersedes all prior and contemporaneous oral and written agreements and discussions. It may only be amended in writing.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the dates reflected below.

"CITY MANAGER"

DATED:____________________________ ____

DONALD J. WHITE

"CITY OF LAGUNA HILLS"

DATED:______________________________ By:_________________________________

City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: January 9, 2018

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Assistant to the City Manager/City Clerk

ISSUE: City Council "Other Agencies" Appointed Representatives

RECOMMENDATION: That the City Council take the following actions:

(1) Review the City of Laguna Hills City Council “Other Agencies” Appointed Representatives List, provide direction to staff regarding any necessary changes for appointments to the list, and, by motion, approve the City Council “Other Agencies” Appointed Representatives List, as revised by the City Council; and

(2) If any changes are desired to the Representative to the Orange County Fire Authority’s Board of Directors, adopt a Resolution entitled: “A Resolution of the City Council of the City of Laguna Hills, California, designating and appointing its Representative to the Orange County Fire Authority’s Board of Directors;” and

(3) Approve and direct the City Clerk to prepare and post an updated FPPC Disclosure Form 806 to reflect all paid appointments to “Other Agencies” boards, committees, and/or commissions in accordance with state law.

SUMMARY:

As a regular practice, following the City Council’s Reorganization in December, the City Council reviews the “Other Agencies” list of Commissions, Boards, and Committees, to which it appoints individuals to represent the City during the forthcoming year.

Orange County Fire Authority

This past year Council Member Sedgwick has served as Director to the Fire Authority's Board of Directors. If the City Council chooses not to make any changes to this appointment then no further action is required. However, should the City Council choose to make a change to the Director, then that action must be formalized by a Resolution, which approval will require a recorded majority vote of the total membership of the City Council. Included as an attachment to this report is the Resolution which would formalize the City Council's change in representative.

Form 806

The Fair Political Practices Commission has mandated that Form 806 be used to report additional compensation that officials receive when appointing themselves to positions on committees, boards, or commissions of a public agency, special district, and joint powers agency or authority. Each agency must post on its website a single Form 806 which lists all the paid appointment positions. When there is a change in compensation, or a new appointment, Form 806 must be updated to reflect the change. Form 806 must be updated promptly as changes occur. Included as an attachment to this report is a copy of the currently posted Form 806.

ATTACHMENTS:

- 180109 List City Representatives
- Resolution for OCFA Director Change
- Form 806 - Public Agency Appointments

CITY OF LAGUNA HILLS
CITY REPRESENTATIVES

NAME OF AGENCY/COMMITTEE	REPRESENTATIVES	DATE APPOINTED
Association of California Cities - OC	Delegate: Mayor Alternate: Mayor Pro Tempore	01/14/1992 12/12/1995
Audit Committee	Channing Sedgwick Heft	03/14/1995 01/13/2015 12/13/2016
Laguna Canyon Foundation Advisory Council	Representative: Carruth	12/13/2016
League of California Cities Voting Delegate to Annual Conference	Delegate: Mayor Alternate: Mayor Pro Tempore	12/10/2002 12/10/2002
Operational Area Council (Emergency)	Representative: Mayor Alternate: Mayor Pro Tempore	12/10/1996 12/14/1999
Orange County Fire Authority	Director : Sedgwick	01/13/2015
OC Public Libraries Library Advisory Board	Representative: Heft Alternate: Gilbert	12/13/2016 12/11/2012
Orange County Mosquito & Vector Control District	Trustee Member: Kogerman	12/11/2012
South Orange County Watershed Management Area Executive Committee	Member: Heft Alternate: Carruth	12/13/2016 12/13/2016
Southern California Association of Governments (SCAG General Assembly)	Delegate: Sedgwick Alternate: vacant	12/13/2016
Transportation Corridor Agency -San Joaquin Hills Transportation Corridor Agency	Director: Carruth Alternate Director: Heft	12/13/2011 12/13/2016

January 9, 2018
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RESOLUTION NO. 2018-01-09-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DESIGNATING AND APPOINTING ITS REPRESENTATIVE TO THE ORANGE COUNTY FIRE AUTHORITY'S BOARD OF DIRECTORS

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, the City as a “member” of the Orange County Fire Authority Joint Powers Authority (JPA) is entitled to appoint a representative director (“Director”) to the Orange County Fire Authority's Board of Directors; and

WHEREAS, each member agency, by Resolution of its governing body, shall designate and appoint one representative to act as its Director on the Authority Board of Directors, except the County whose Board of Supervisors shall appoint two representatives to act as its Directors; and

WHEREAS, each Director shall be a current elected member of the governing body; and

WHEREAS, each Director shall hold office until the selection of a successor by the appointing body; and

WHEREAS, each Director is to serve at the pleasure of his or her appointing body and may be removed at any time, with or without cause, at the sole direction of that appointing body; and

WHEREAS, any vacancy shall be filled in the same manner as the original appointment of a Director.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Designate and appoint ________________ as its Director to the Orange County Fire Authority Board of Directors.

SECTION 2. That the City Clerk shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 9th day of January 2018.

MELODY CARRUTH, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2018-01-09-X adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 9th day of January 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Agency Report of: Public Official Appointments

A Public Document

California Form 806

For Official Use Only

1. Agency Name

City of Laguna Hills

Division, Department, or Region *(If Applicable)*

Designated Agency Contact *(Name, Title)*

Melissa Au-Yeung

Area Code/Phone Number	**E-mail**
949-707-2635	mau-yeung@ci.laguna-hills.ca.us

Page 1 of 1

Date Posted: 1/06/2016 *(Month, Day, Year)*

2. Appointments

Agency Boards and Commissions	Name of Appointed Person	Appt Date and Length of Term	Per Meeting/Annual Salary/Stipend
Orange County Fire Authority	Name (Last, First): Sedgwick, Don Alternate, if any (Last, First): None	Appt Date: 1 / 13 / 15 Length of Term: undefined	Per Meeting: $ 100-300 max. Estimated Annual: ☐ $0-$1,000 ☐ $2,001-$3,000 ☐ $1,001-$2,000 ☒ $3,600 Other
Orange County Mosquito and Vector Control District	Name (Last, First): Kogerman, Barbara Alternate, if any (Last, First): None	Appt Date: 12 / 8 / 15 Length of Term: 4 yr.	Per Meeting: $ 100 Estimated Annual: ☐ $0-$1,000 ☐ $2,001-$3,000 ☒ $1,001-$2,000 ☐ Other
Southern California Association of Governments (Orange County Council of Government)	Name (Last, First): Kogerman, Barbara Alternate, if any (Last, First): None	Appt Date: 1 / 22 / 15 Length of Term: 2 yr.	Per Meeting: $ 120 Estimated Annual: ☐ $0-$1,000 ☐ $2,001-$3,000 ☒ $1,001-$2,000 ☐ Other
Transportation Corridor Agency (San Joaquin Hills Transportation Corridor Agency)	Name (Last, First): Carruth, Melody Alternate, if any (Last, First): Kogerman, Barbara	Appt Date: 1 / 27 / 15 Length of Term: undefined	Per Meeting: $ 120 Estimated Annual: ☐ $0-$1,000 ☐ $2,001-$3,000 ☒ $1,001-$2,000 ☐ Other

3. Verification

I have read and understand FPPC Regulation 18705.5. I have verified that the appointment and information identified above is true to the best of my information and belief.

Signature of Agency Head or Designee	Print Name	Title	(Month, Day, Year)
[signature]	Bruce E. Channing	City Manager	1/06/2016

Comment: ______