CITY COUNCIL REGULAR MEETING

DECEMBER 11, 2012
7:00 PM

AGENDA

Melody Carruth, Mayor
Joel Lautenschleger, Mayor Pro Tempore
Barbara Kogerman, Council Member
Randal Bressette, Council Member
L. Allan Songstad, Jr., Council Member

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, California 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.

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: COUNCIL MEMBER KOGERMAN

ROLL CALL OF CITY COUNCIL MEMBERS

CITY COUNCIL REORGANIZATION

CERTIFICATION OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 6, 2012

RECOMMENDATION: THAT THE CITY COUNCIL: (1) RECEIVE AND FILE THE CERTIFICATE OF RESULTS FOR THE GENERAL MUNICIPAL ELECTION HELD ON TUESDAY, NOVEMBER 6, 2012; AND (2) ADOPT A RESOLUTION ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD ON TUESDAY, NOVEMBER 6, 2012, DECLARING THE RESULTS AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

COMMENTS BY OUTGOING MAYOR

RECOGNITION OF OUTGOING COUNCIL MEMBERS

RECOMMENDATION: THAT THE CITY COUNCIL: (1) ADOPT A RESOLUTION ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING THE SERVICE OF COUNCIL MEMBER L. ALLAN SONGSTAD, JR.; AND (2) ADOPT A RESOLUTION ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING THE SERVICE OF COUNCIL MEMBER JOEL LAUTENSCHLEGER, AND (3) THAT THE CITY COUNCIL PRESENT A RESOLUTION OF COMMENDATION TO L. ALLAN SONGSTAD, JR., AND TO JOEL LAUTENSCHLEGER.

OATHS OF OFFICE FOR NEW COUNCIL MEMBERS

MAYOR PRO TEMPORE LAUTENSCHLEGER WILL ADMINISTER THE OATH OF OFFICE TO INCOMING COUNCIL MEMBER DORE J. GILBERT AND PRESENT THE CERTIFICATE OF ELECTION; AND MAYOR CARRUTH WILL ADMINISTER THE OATH OF OFFICE TO INCOMING COUNCIL MEMBER ANDREW BLOUNT AND PRESENT THE CERTIFICATE OF ELECTION.

ELECTION OF MAYOR

RECOMMENDATION: THAT THE CITY COUNCIL NOMINATE AND ELECT A MAYOR.

ELECTION OF MAYOR PRO TEMPORE

RECOMMENDATION: THAT THE CITY COUNCIL NOMINATE AND ELECT A MAYOR PRO TEMPORE.

NATIONAL ANTHEM

MISS ELIZABETH ANNE VAUGHAN WILL COME FORWARD TO SING THE NATIONAL ANTHEM.

RECOGNITION OF OUTGOING MAYOR

RECOMMENDATION: THAT THE CITY COUNCIL: (1) ADOPT A RESOLUTION ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, COMMENDING MELODY CARRUTH, MAYOR; AND (2) PRESENT A CERTIFICATE OF COMMENDATION AND PLAQUE TO MELODY CARRUTH RECOGNIZING HER SERVICE TO THE CITY AS MAYOR.

REMARKS OF NEWLY ELECTED MAYOR AND COUNCIL MEMBERS

RECESS AND RECONVENE

ROLL CALL OF CITY COUNCIL MEMBERS

1. PRESENTATIONS AND PROCLAMATIONS

1.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AN ORAL REPORT FROM LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON ADAM WONG.

1.2 LAGUNA HILLS 3/5 MARINE SUPPORT COMMITTEE

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AN ORAL PRESENTATION FROM COMMITTEE CHAIR MIKE BLAND.

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. MINUTES

3.1 REGULAR MEETING, NOVEMBER 27, 2012

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE MINUTES OF THE NOVEMBER 27, 2012, REGULAR MEETING.

4. 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.

4.1 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED DECEMBER 11, 2012

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER IN THE AMOUNT OF $216,454.75.

4.2 AFFIRMATION OF APPOINTMENTS LIST FOR ALL 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.

4.3 UPDATING DESIGNATION OF ASSISTANT AND DEPUTY CITY ATTORNEYS

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING SECTION 3 OF RESOLUTION NO. 2005-11-22-2 REGARDING THE DESIGNATION OF ASSISTANT AND DEPUTY CITY ATTORNEYS."

4.4 MEASURE M2 EXPENDITURE REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2012

RECOMMENDATION: THAT THE CITY COUNCIL: (1) APPROVE THE MEASURE M2 EXPENDITURE REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2012, FOR SUBMITTAL TO OCTA; AND (2) ADOPT A RESOLUTION ENTITLED: "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."

4.5 LEASE AGREEMENT WITH THE DAYLE MCINTOSH CENTER AND LEASE TERMINATION AGREEMENT WITH THE SOUTH ORANGE COUNTY REGIONAL CHAMBERS OF COMMERCE FOR 24031 EL TORO ROAD, SUITE 300, LAGUNA HILLS, CALIFORNIA

RECOMMENDATION: THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO: (1) EXECUTE A LEASE TERMINATION AGREEMENT WITH THE SOUTH ORANGE COUNTY REGIONAL CHAMBERS OF COMMERCE FOR 24031 EL TORO ROAD, SUITE 300, LAGUNA HILLS, CALIFORNIA; AND, (2) EXECUTE LEASE DOCUMENTS WITH THE DAYLE MCINTOSH CENTER FOR 24031 EL TORO ROAD, SUITE 300, LAGUNA HILLS, CALIFORNIA.

4.6 ANNUAL REVIEW OF INVESTMENT POLICIES AND DELEGATION OF INVESTMENT AUTHORITY TO THE CITY TREASURER

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "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. 2011-12-13-2."

4.7 ADOPTION OF AN ORDINANCE APPROVING AND ADOPTING AMENDMENTS TO TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO COMPLY WITH STATE REQUIREMENTS GENERALLY KNOWN AS "SB 2"

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO ALLOW EMERGENCY SHELTERS BY-RIGHT IN THE MIXED USE ZONE AND TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS RESIDENTIAL USES IN ALL RESIDENTIAL ZONES."

4.8 FIRST QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY 2012/13

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AND FILE THE FIRST QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY 2012/13

ITEMS REMOVED FROM THE CONSENT CALENDAR

5. PLANNING AGENCY

5.1 ROLL CALL OF PLANNING AGENCY MEMBERS

5.2 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.

5.3 MINUTES

5.3.1 REGULAR MEETING, NOVEMBER 27, 2012

RECOMMENDATION: THAT THE PLANNING AGENCY APPROVE THE MINUTES OF THE NOVEMBER 27, 2012, REGULAR MEETING.

5.4 PLANNING AGENCY PUBLIC HEARINGS

PLANNING AGENCY ADJOURNMENT

6. CITY COUNCIL PUBLIC HEARINGS

7. ADMINISTRATIVE REPORTS

7.1 City Manager

7.2 City Clerk

7.2.1 2013 CITY COUNCIL MEETING SCHEDULE

RECOMMENDATION: THAT THE CITY COUNCIL SELECT A DATE FOR COMMISSION INTERVIEWS AND ADOPT THE PROPOSED CALENDAR FOR 2013.

7.2.2 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 ON THE LIST, AND BY MOTION, APPROVE THE CITY COUNCIL "OTHER AGENCIES" APPOINTED REPRESENTATIVES LIST, AS REVISED BY THE COUNCIL;

(2) ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DESIGNATING AND APPOINTING ITS REPRESENTATIVE AND ALTERNATE TO THE ORANGE COUNTY FIRE AUTHORITY'S BOARD OF DIRECTORS";

(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.

8. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS AND MAYOR

9. CITY COUNCIL MEMBER COMMENTS

10. CLOSED SESSION

ADJOURNMENT

The December 25, 2012, City Council/Planning Agency Meeting will not be held. The next Regular Meeting of the City Council/Planning Agency will be January 8, 2013, at 7:00 PM, in the City Council Chamber, located at 24035 El Toro Road, Laguna Hills, California.

CERTIFICATION

I, PEGGY J. JOHNS, 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 La Paz Center by December 7, 2012, at 5:00PM.

Peggy J. Johns

PEGGY J. JOHNS, CITY CLERK

December 7, 2012

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 of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: PEGGY J. JOHNS
CITY CLERK

ISSUE: CERTIFICATION OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 6, 2012

RECOMMENDATION: THAT THE CITY COUNCIL: (1) RECEIVE AND FILE THE CERTIFICATE OF RESULTS FOR THE GENERAL MUNICIPAL ELECTION HELD ON TUESDAY, NOVEMBER 6, 2012; AND (2) ADOPT A RESOLUTION ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD ON TUESDAY, NOVEMBER 6, 2012, DECLARING THE RESULTS AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

SUMMARY:

On June 26, 2012, the City Council adopted Resolution No. 2012-06-26-1 calling the City's General Municipal Election to be held on November 6, 2012, for the purpose of electing two City Council Members to four-year terms. Resolution No. 2012-06-26-2 was also adopted requesting the Orange County Board of Supervisors consolidate the Municipal Election with the November 6, 2012, Statewide General Election and provide election services through the Registrar of Voters Office.

On Tuesday, November 6, 2012, the General Municipal Election was conducted and the Orange County Registrar of Voters has canvassed the returns and certified the results of the election. The State Elections Code Section 10262 (b), requires the City Council to certify the election results no later than the next regularly scheduled City Council meeting following the Orange County Registrar's final canvass of the returns.

Additionally, the State Elections Code Section 10263 requires that upon completion of the canvass and before installing the new officers, the governing body shall adopt a Resolution reciting the fact of the election and the other matters that are enumerated. The City Clerk is submitting the subject Resolution for adoption as required by the State Election Code.

The official canvass of the election, which is attached to, and referenced as “Exhibit A” of the subject Resolution, contains a report of the number of votes cast for each candidate.

ATTACHMENTS:

- Resolution

RESOLUTION NO. 2012-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD ON TUESDAY, NOVEMBER 6, 2012, DECLARING THE RESULTS AND SUCH OTHER MATTERS AS PROVIDED BY LAW

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

WHEREAS, a General Municipal Election was held and conducted in the City of Laguna Hills, California, on Tuesday, November 6, 2012, as required by law; and

WHEREAS, notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form, manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

WHEREAS, the County Elections Department canvassed the returns of the election and has certified the results to this City Council, the results are received, attached and made a part hereof as “Exhibit A”.

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

SECTION 1. That the whole number of ballots cast in the precincts except vote by mail ballots and Early voting was 7,126.

That the whole number of ballots cast in Early voting was 117.

That the whole number of vote by mail ballots cast in the City was 7,037, making a total of 14,280 ballots cast in the City.

SECTION 2. That the names of persons voted for at the election for City Council Member are as follows:

Bill Hunt
AJ Djowharzadeh
Dore Gilbert
Raghu Mathur
Andrew Blount

SECTION 3. That the number of votes given at each precinct and the number of votes given in the City to each of the persons above named for the respective offices for which the persons were candidates were as listed in Exhibit "A"; and

SECTION 4. The City Council does declare and determine that: **Andrew Blount** was elected as Member of the City Council for the full term of four years; and **Dore J. Gilbert** was elected as Member of the City Council for the full term of four years.

SECTION 5. The City Clerk shall enter on the records of the City Council of the City, a statement of the result of the election, showing (1) the whole number of ballots cast in the City; (2) the names of the persons voted for; (3) for what office each person was voted for; (4) the number of votes given at each precinct to each person; and (5) the total number of votes given to each person.

SECTION 6. That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk, or designee, shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

SECTION 7. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED, AND ADOPTED this 11th day of December 2012.

____
MELODY CARRUTH, MAYOR

ATTEST:

____
PEGGY J. JOHNS, CITY CLERK

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

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2012-12-11- adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 11th day of December 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

PEGGY J. JOHNS, CITY CLERK

EXHIBIT A

CERTIFICATE OF REGISTRAR OF VOTERS TO RESULT OF THE CANVASS OF THE GENERAL ELECTION RETURNS

STATE OF CALIFORNIA)
)ss.
COUNTY OF ORANGE)

I, Neal Kelley, Registrar of Voters of Orange County, do hereby certify the following to be a full, true and correct Statement of the Vote of the election listed below, consolidated with the General Election held on November 6, 2012.

CITY OF LAGUNA HILLS
MEMBER OF THE CITY COUNCIL

ANDREW BLOUNT	5,679
DORE GILBERT	4,980
BILL HUNT	4,857
RAGHU P. MATHUR	4,287
AJ DJOWHARZADEH	970
EARLY VOTING BALLOTS CAST:	117
PRECINCT BALLOTS CAST:	7,126
VOTE-BY-MAIL BALLOTS CAST:	7,037
TOTAL BALLOTS CAST:	14,280

I hereby certify that the number of votes cast for each candidate is as set forth above and appears in the Certified Statement of the Vote.

WITNESS my hand and Official Seal this 21st day of November, 2012.

COUNTY OF ORANGE CALIFORNIA

NEAL KELLEY
Registrar of Voters
Orange County

CERTIFIED STATEMENT OF THE VOTES CAST

at the

GENERAL ELECTION

November 6, 2012

in the

County of Orange, State of California

FILED ______________, 2012

DEBRA BOWEN, SECRETARY OF STATE

BY __________________________ DEPUTY

State of California)
) ss
County of Orange)

I, Neal Kelley, Registrar of Voters of Orange County, do hereby certify that the within is a true and correct statement of the votes cast in this county at the General Election, as determined by the canvass of the returns of said election.

I further certify the results of the 1 percent manual tally contained no discrepancies between the machine count and the manual tally.

WITNESS my hand and Official Seal

THIS 21st DAY OF Nov, 2012

______________________, REGISTRAR OF VOTERS

COUNTY OF ORANGE CALIFORNIA

CITY OF LAGUNA HILLS Member, City Council												
Precinct	Party Member Registration	Ballots Cast	Turnout	CITY OF LAGUNA HILLS Member, City Council		AJ DJOWHARZADEH	ANDREW BLOUNT	BILL HUNT	DORE GILBERT	RAGHU P. MATHUR		
0038083	496	359	72.38%			18	152	114	137	113		
0038091	529	394	74.48%			20	159	147	165	115		
0038104	1180	813	68.90%			59	340	267	293	260		
0038292	337	87	25.82%			5	24	31	23	30		
0038293	1294	953	73.65%			54	381	315	277	239		
0038301	453	291	64.24%			12	116	110	101	69		
0038302	1054	737	69.92%			33	239	268	236	227		
0038304	858	616	71.79%			37	224	230	175	165		
0038305	988	632	63.97%			34	197	221	211	165		
0038310	669	515	76.98%			46	216	166	215	166		
0038311	1304	943	72.32%			77	364	255	310	301		
0038312	1177	873	74.17%			65	312	255	263	248		
0038313	1163	890	76.53%			67	335	306	409	248		
0038314	974	712	73.10%			61	318	283	278	213		
0038317	1135	888	78.24%			89	436	307	314	272		
0038374	955	701	73.40%			54	290	212	227	190		
0038375	669	509	76.08%			21	253	184	198	160		
0038376	738	552	74.80%			51	235	147	186	231		
0038377	632	491	77.69%			38	220	157	192	170		
0038601	1646	1109	67.38%			68	424	418	396	328		
0038602	1792	1215	67.80%			61	444	464	374	377		
Totals:	20043	14280	71.25%			970	5679	4857	4980	4287		

CITY OF LAGUNA HILLS Member, City Council										
District	Party Member Registration	Ballots Cast	Turnout	CITY OF LAGUNA HILLS Member, City Council		AJ DJOWHARZADEH	ANDREW BLOUNT	BILL HUNT	DORE GILBERT	RAGHU P. MATHUR
36th Senate District	20043	117	0.58%			10	42	29	44	47
45th Congressional District	20043	117	0.58%			10	42	29	44	47
4th Judicial (South Court)	20043	117	0.58%			10	42	29	44	47
5th Supervisorial District	20043	117	0.58%			10	42	29	44	47
73rd Assembly District	20043	117	0.58%			10	42	29	44	47
County Board of Education Trustee Area 5	20043	117	0.58%			10	42	29	44	47
El Toro Water District	5145	23	0.45%			2	11	5	11	8
Laguna Hills	20043	117	0.58%			10	42	29	44	47
Moulton-Niguel Water District	14898	94	0.63%			8	31	24	33	39
Moulton-Niguel Water District Division 3	14898	94	0.63%			8	31	24	33	39
Municipal Water District Of Orange County	20043	117	0.58%			10	42	29	44	47
Municipal Water District of Orange County Div	5145	23	0.45%			2	11	5	11	8
Municipal Water District of Orange County Div	14898	94	0.63%			8	31	24	33	39
Orange County	20043	117	0.58%			10	42	29	44	47
Saddleback Valley Unified School District	20043	117	0.58%			10	42	29	44	47
South Orange County Community College Dis	20043	117	0.58%			10	42	29	44	47
South Orange County Community College Dis	20043	117	0.58%			10	42	29	44	47
State Board of Equalization (4th District)	20043	117	0.58%			10	42	29	44	47
Totals:	20043	117	0.58%			10	42	29	44	47

CITY OF LAGUNA HILLS Member, City Council										
District	Party Member Registration	Ballots Cast	Turnout	CITY OF LAGUNA HILLS Member, City Council		AJ DJOWHARZADEH	ANDREW BLOUNT	BILL HUNT	DORE GILBERT	RAGHU P. MATHUR
36th Senate District	20043	7037	35.11%			381	2814	2497	2580	2321
45th Congressional District	20043	7037	35.11%			381	2814	2497	2580	2321
4th Judicial (South Court)	20043	7037	35.11%			381	2814	2497	2580	2321
5th Supervisorial District	20043	7037	35.11%			381	2814	2497	2580	2321
73rd Assembly District	20043	7037	35.11%			381	2814	2497	2580	2321
County Board of Education Trustee Area 5	20043	7037	35.11%			381	2814	2497	2580	2321
El Toro Water District	5145	1688	32.81%			60	615	637	540	538
Laguna Hills	20043	7037	35.11%			381	2814	2497	2580	2321
Moulton-Niguel Water District	14898	5349	35.90%			321	2199	1860	2040	1783
Moulton-Niguel Water District Division 3	14898	5349	35.90%			321	2199	1860	2040	1783
Municipal Water District Of Orange County	20043	7037	35.11%			381	2814	2497	2580	2321
Municipal Water District of Orange County Div	5145	1688	32.81%			60	615	637	540	538
Municipal Water District of Orange County Div	14898	5349	35.90%			321	2199	1860	2040	1783
Orange County	20043	7037	35.11%			381	2814	2497	2580	2321
Saddleback Valley Unified School District	20043	7037	35.11%			381	2814	2497	2580	2321
South Orange County Community College Dis	20043	7037	35.11%			381	2814	2497	2580	2321
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State Board of Equalization (4th District)	20043	7037	35.11%			381	2814	2497	2580	2321
Totals:	**20043**	**7037**	**35.11%**			**381**	**2814**	**2497**	**2580**	**2321**

CITY OF LAGUNA HILLS Member, City Council										
District	Party Member Registration	Ballots Cast	Turnout	CITY OF LAGUNA HILLS Member, City Council		AJ DJOWHARZADEH	ANDREW BLOUNT	BILL HUNT	DORE GILBERT	RAGHU P. MATHUR
36th Senate District	20043	14280	71.25%			970	5679	4857	4980	4287
45th Congressional District	20043	14280	71.25%			970	5679	4857	4980	4287
4th Judicial (South Court)	20043	14280	71.25%			970	5679	4857	4980	4287
5th Supervisorial District	20043	14280	71.25%			970	5679	4857	4980	4287
73rd Assembly District	20043	14280	71.25%			970	5679	4857	4980	4287
County Board of Education Trustee Area 5	20043	14280	71.25%			970	5679	4857	4980	4287
El Toro Water District	5145	3491	67.85%			177	1220	1293	1097	1003
Laguna Hills	20043	14280	71.25%			970	5679	4857	4980	4287
Moulton-Niguel Water District	14898	10789	72.42%			793	4459	3564	3883	3284
Moulton-Niguel Water District Division 3	14898	10789	72.42%			793	4459	3564	3883	3284
Municipal Water District Of Orange County	20043	14280	71.25%			970	5679	4857	4980	4287
Municipal Water District of Orange County Div	5145	3491	67.85%			177	1220	1293	1097	1003
Municipal Water District of Orange County Div	14898	10789	72.42%			793	4459	3564	3883	3284
Orange County	20043	14280	71.25%			970	5679	4857	4980	4287
Saddleback Valley Unified School District	20043	14280	71.25%			970	5679	4857	4980	4287
South Orange County Community College Dis	20043	14280	71.25%			970	5679	4857	4980	4287
South Orange County Community College Dis	20043	14280	71.25%			970	5679	4857	4980	4287
State Board of Equalization (4th District)	20043	14280	71.25%			970	5679	4857	4980	4287
Totals:	**20043**	**14280**	**71.25%**			**970**	**5679**	**4857**	**4980**	**4287**

12/11/2012 ITEM NO.

RESOLUTION NO. 2012-12-11-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING THE SERVICE OF COUNCIL MEMBER L. ALLAN SONGSTAD, JR.

WHEREAS, L. Allan Songstad, Jr. was first elected to the inaugural City Council on March 5, 1991, took his Oath of Office on December 20, 1991, served with distinction as Mayor for five terms, and has admirably performed his duties and responsibilities as a member of the Laguna Hills City Council by providing excellent and constructive contributions to the delivery of municipal services both locally and regionally; and

WHEREAS, L. Allan Songstad, Jr. as a strong advocate for operating a lean and efficient City government predicated upon fiscally sound business principles and practices, has displayed outstanding leadership throughout his 19 years on the City Council, particularly regarding his pivotal involvement in the City's path to Incorporation; the development of the Laguna Hills Community Center and Sports Complex; the defeat of El Toro Airport; the annexations of the North Laguna Hills and Westside areas expanding our boundaries; commitment to Public Safety; the purchase of our Civic Center with leases providing positive net-income to the City; various public projects including roads and parks to improve the quality of life for residents increasing property values and creating a friendly atmosphere for businesses; Strong Cities / Strong State Program recognition; Fiscal Integrity with award winning budgets and CAFRs and a surplus operating budget with a healthy fund balance; commitment to preserve Laguna Hills history with an emphasis on providing exceptional recreation, athletic and community services programs; in addition, a dedication to applying for grants to providing financial assistance for the Florence Sylvester Memorial Senior Center and support for the Senior Taxi Program; and finally continued support of our adopted Marine Battalion; and,

WHEREAS, L. Allan Songstad, Jr. has represented the City well serving on various boards, as Chairman of the Board of Directors of the El Toro Reuse Planning Authority; as President of the Orange County Division of the League of California Cities; as member of the State League Board of Directors; as inaugural board member of the Association of California Cities - OC; as a member of the OCCOG Board of Directors; and

WHEREAS, L. Allan Songstad, Jr. is committed to improve economic development in the City as evidenced by the recent purchase and redesign of the former Circuit City Site by Ashley Furniture; the anticipated rehabilitation of the Moulton-La Paz Center; and the expected Oakbrook Village Mixed Use Redevelopment Project as a few examples; and, WHEREAS, L. Allan Songstad, Jr.'s, guidance, wisdom, and service have always been marked by commendable dedication to the City's economic, cultural, and aesthetic development, and focused on the best interests of the City as a whole, and he will be missed by Council Members and staff alike.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, on behalf of all our citizens, does hereby express sincere appreciation and thanks to L. Allan Songstad, Jr., for his distinguished service to the City of Laguna Hills, highly commend him for the manner in which he has carried out his duties as Council Member, and extend our best wishes for continued success and happiness in all his future endeavors.

PASSED, APPROVED, AND ADOPTED this 11th day of December 2012.

____
MELODY CARRUTH, MAYOR

ATTEST:

____
PEGGY J. JOHNS, CITY CLERK

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

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2012-12-11-X adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 11th day of December 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
PEGGY J. JOHNS, CITY CLERK

RESOLUTION NO. 2012-12-11-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING THE SERVICE OF COUNCIL MEMBER JOEL LAUTENSCHLEGER

WHEREAS, Joel Lautenschleger was first elected to the inaugural City Council on March 5, 1991, took his Oath of Office on December 20, 1991, served with distinction as Mayor for 4 terms, and has admirably performed his duties and responsibilities as a member of the Laguna Hills City Council by providing excellent and constructive contributions to the delivery of municipal services both locally and regionally; and

WHEREAS, Joel Lautenschleger as a strong advocate for operating a lean and efficient City government predicated upon fiscally sound business principles and practices, has displayed outstanding leadership throughout his 21 years on the City Council, particularly regarding his pivotal involvement in the City's path to Incorporation; the development of the Laguna Hills Community Center and Sports Complex; the defeat of El Toro Airport; the annexations of the North Laguna Hills and Westside areas expanding our boundaries; commitment to Public Safety; the purchase of our Civic Center with leases providing positive net-income to the City; various public projects including roads and parks to improve the quality of life for residents increasing property values and creating a friendly atmosphere for businesses; Strong Cities / Strong State Program recognition; Fiscal Integrity with award winning budgets and CAFRs and a surplus operating budget with a healthy fund balance; commitment to preserve Laguna Hills history with an emphasis on providing exceptional recreation, athletic and community services programs; in addition, a dedication to applying for grants to providing financial assistance for the Florence Sylvester Memorial Senior Center and support for the Senior Taxi Program; and finally continued support of our adopted Marine Battalion; and,

WHEREAS, Joel Lautenschleger has represented the City well serving on various boards such as Orange County Council of Governments, Orange County Vector Control District, and served for 20 years on the San Joaquin Hills Transportation Corridor Agency, twice serving as Chairman for the Ops and Finance Committee, and as Chair of the Board in 2009; and

WHEREAS, Joel Lautenschleger is committed to improve economic development in the City as evidenced by the recent purchase and redesign of the former Circuit City Site by Ashley Furniture; the anticipated rehabilitation of the Moulton-La Paz Center; and the expected Oakbrook Village Mixed Use Redevelopment Project as a few examples; and, WHEREAS, Joel Lautenschleger's guidance, wisdom, and service have always been marked by commendable dedication to the City's economic, cultural, and aesthetic development, and focused on the best interests of the City as a whole, and he will be missed by Council Members and staff alike.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, on behalf of all our citizens, does hereby express sincere appreciation and thanks to Joel Lautenschleger for his distinguished service to the City of Laguna Hills, highly commend him for the manner in which he has carried out his duties as Council Member, and extend our best wishes for continued success and happiness in all his future endeavors.

PASSED, APPROVED, AND ADOPTED this 11th day of December 2012.

____
MELODY CARRUTH, MAYOR

ATTEST:

____
PEGGY J. JOHNS, CITY CLERK

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

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2012-12-11-X adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 11th day of December 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
PEGGY J. JOHNS, CITY CLERK

RESOLUTION NO. 2012-12-11-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, COMMENDING MELODY CARRUTH, MAYOR

WHEREAS, Melody Carruth, was elected to the inaugural City Council on March 5, 1991; took her Oath of Office on December 20, 1991; served as the first Mayor of the City of Laguna Hills from December 20, 1991, through December 8, 1992; and served as Council Member for the remainder of her term until December 1996; and

WHEREAS, Melody Carruth was again elected to the City Council on November 5, 2002; took her Oath of Office on December 3, 2002; served her second term as Mayor from December 12, 2006, through December 11, 2007; and on December 13, 2011, was again elected by the City Council of the City of Laguna Hills to serve a third term as its Mayor; and

WHEREAS, Melody Carruth, in addition to accepting the responsibilities of Mayor and faithfully fulfilling those duties and responsibilities has ably represented the City at local events throughout the region, and served on various boards including the Coastal Greenbelt Authority, Laguna Canyon Foundation Advisory Council, South Orange County Watershed Management Area Executive Committee, and San Joaquin Hills Transportation Corridor Agency; and

WHEREAS, during the year that Melody Carruth has presided as Mayor, the City celebrated 20 years of Cityhood; Community Services celebrated 10 years of providing Community Service Activities at the Community Center by holding an Open House; Laguna Hills was recognized by the Strong Cities/Strong State Program as a municipality that provides quality programs and services to residents while maintaining conservative fiscal management of resources and remaining friendly to businesses; the City of Laguna Hills Memorial Day Half Marathon, 10k, 5k, honored the United States Marine Corp Dark Horse Battalion and paid tribute to the 3/5 Battalion by donating a portion of the proceeds to the 3/5 Dark Horse Support Committee; the Oakbrook Village Mixed Use Redevelopment Project was approved and Ashley Furniture Store, Total Wine, Chick-Fil-A opened for business on the former Circuit City site; the Chevron Station and Mini-Mart renovation, and the Taj Mahal Medical Office complex renovations were completed; traffic relief was provided with the completion of the La Paz Road at I-5 Interchange Widening Project and the southbound I-5 Freeway off-ramp connection to the widening of Avenida de la Carlota from Paseo de Valencia to El Toro Road; and funding for Senior Programs continued through the grants for the Florence Sylvester Senior Center refurbishment and the Senior Taxi Program.

WHEREAS, the performance of her duties and responsibilities as Mayor has been characterized by excellent and constructive contributions to the lasting development of our City, earning the respect of her colleagues and the admiration and high regard of all those with whom she has come in contact.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, on behalf of all our citizens, does hereby express its appreciation and thanks to Melody Carruth, for her service to the community as Laguna Hills Mayor for 2012.

PASSED, APPROVED, AND ADOPTED this 11th day of December 2012.

____
, MAYOR

ATTEST:

____
PEGGY J. JOHNS, CITY CLERK

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

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2012-12-11-X adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 11th day of December 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
PEGGY J. JOHNS, CITY CLERK

CITY OF LAGUNA HILLS, CALIFORNIA
CITY COUNCIL/PLANNING AGENCY REGULAR MEETING
MINUTES
NOVEMBER 27, 2012

CALL TO ORDER

Mayor Carruth called the Regular Meeting of the City Council of the City of Laguna Hills, California, to order at 7:00 PM in the Laguna Hills City Council Chamber, 24305 El Toro Road, Laguna Hills.

PLEDGE OF ALLEGIANCE: Council Member Songstad

ROLL CALL OF CITY COUNCIL MEMBERS

Present: Mayor Carruth, Mayor Pro Tempore Lautenschleger, Council Member Bressette, Council Member Kogerman, and Council Member Songstad

1. PRESENTATIONS AND PROCLAMATIONS

1.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON

THE CITY COUNCIL RECEIVED AN ORAL REPORT FROM LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON ADAM WONG.

1.2 INTRODUCTION OF THE 2012 CITIZENS EMERGENCY PREPAREDNESS ACADEMY

MAYOR CARRUTH RECOGNIZED THOSE RESIDENTS WHO HAD COMPLETED THE EIGHT WEEK 2012 CITIZENS EMERGENCY PREPAREDNESS ACADEMY COURSE.

2. PUBLIC COMMENTS

<u>DARK HORSE COMMITTEE</u>

Mike Bland, Laguna Hills, gave an update on the Dark Horse 3/5 Marine Battalion Committee.

3. MINUTES

3.1 REGULAR MEETING, NOVEMBER 13, 2012

MOTION TO APPROVE THE MINUTES OF THE NOVEMBER 13, 2012, REGULAR MEETING, BY M/COUNCIL MEMBER SONGSTAD, S/COUNCIL MEMBER BRESSETTE.
APPROVED BY A VOTE OF 5-0.

4. CONSENT CALENDAR

MOTION TO APPROVE THE CONSENT CALENDAR, BY M/COUNCIL MEMBER BRESSETTE, S/COUNCIL MEMBER SONGSTAD, WITH COUNCIL MEMBER KOGERMAN REMOVING ITEMS NO. 4.1 AND NO. 4.7, AND COUNCIL MEMBER BRESSETTE REMOVING ITEM NO. 4.2
APPROVED BY A VOTE OF 5-0.

4.3 PROGRESS PAYMENT NO. 5, FINAL, FOR COMMUNITY CENTER & SPORTS COMPLEX PLAYGROUND RENOVATIONS AND LIGHT REFURBISHMENT, CIP NO. 514, AND COSTEAU PARK PLAYGROUND RENOVATIONS, CIP NO. 239

THE CITY COUNCIL APPROVED PROGRESS PAYMENT NO. 5, FINAL, IN THE NET AMOUNT OF $1,578.47, TO SIGNATURE CONTRACTORS, FOR COMMUNITY CENTER & SPORTS COMPLEX PLAYGROUND RENOVATIONS AND LIGHT REFURBISHMENT, CIP NO. 514, AND COSTEAU PARK PLAYGROUND RENOVATIONS, CIP NO. 239, AND AUTHORIZED THE FILING OF THE NOTICE OF COMPLETION AND SUBSEQUENT RELEASE OF RETENTION IN 35 DAYS, IF NO LIENS HAVE BEEN FILED.

4.4 COOPERATIVE AGREEMENTS C-2-1995, C-2-1996, AND C-2-1997 WITH THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR THE IMPLEMENTATION OF TRAFFIC SIGNAL SYNCHRONIZATION PROJECTS ON OSO PARKWAY, LOS ALISOS BOULEVARD AND LAKE FOREST DRIVE, RESPECTIVELY, CIP NO. 168B

THE CITY COUNCIL APPROVED COOPERATIVE AGREEMENTS C-2-1995, C-2-1996, AND C-2-1997 WITH THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR THE IMPLEMENTATION OF TRAFFIC SIGNAL SYNCHRONIZATION PROJECTS ON OSO PARKWAY, LOS ALISOS BOULEVARD AND LAKE FOREST DRIVE, RESPECTIVELY, CIP NO. 168B, AND AUTHORIZED THE MAYOR TO SIGN THE AGREEMENTS AND THE CITY CLERK TO ATTEST THERETO.

4.5 STOP SIGN INSTALLATION ON LINDA FLORA STREET AT EL SEGUNDO STREET

THE CITY COUNCIL ADOPTED RESOLUTION NO. 2012-11-27-1, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ESTABLISHING A SIDE STREET STOP SIGN ON LINDA FLORA STREET AT EL SEGUNDO STREET.

4.6 PROGRESS PAYMENT NO. 7, FINAL, FOR AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164

THE CITY COUNCIL APPROVED PROGRESS PAYMENT NO. 7, FINAL, IN THE NET AMOUNT OF $61,610.97, TO HILLCREST CONTRACTING, INC., FOR THE AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164, AND AUTHORIZED THE FILING OF THE NOTICE OF COMPLETION AND SUBSEQUENT RELEASE OF RETENTION IN 35 DAYS, IF NO LIENS HAVE BEEN FILED.

4.8 WEBSITE MEETING AGENDA ACCESS ISSUES

THE CITY COUNCIL RECEIVED AND FILED THE REPORT.

ITEMS REMOVED FROM THE CONSENT CALENDAR

4.1 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED NOVEMBER 27, 2012

Council Member Kogerman removed this item from the Consent Calendar to comment regarding the City's annual membership to the Association of California Cities - OC .

MOTION TO APPROVE THE WARRANT REGISTER IN THE AMOUNT OF $893,033.08, BY M/COUNCIL MEMBER BRESSETTE, S/MAYOR CARRUTH. APPROVED BY A VOTE OF 5-0.

4.7 PRESENTATION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) FOR FISCAL YEAR 2011/12

Council Member Kogerman removed this item from the Consent Calendar to ask Assistant City Manager White questions regarding the Comprehensive Annual Financial Report (CAFR) for Fiscal Year 2011/2012.

MOTION TO RECEIVE AND FILE THE COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FY 2011/12, TOGETHER WITH THE AUDIT LETTERS, BY M/COUNCIL MEMBER SONGSTAD, S/COUNCIL MEMBER BRESSETTE. APPROVED BY A VOTE OF 5-0.

4.2 INITIATION OF THE PUBLIC PROCESS AND DESIGN SERVICES FOR THE LA PAZ OPEN SPACE PROJECT, CIP NO. 615A

Mayor Pro Tempore Lautenschleger stated that he had a potential conflict of interest because he owned real property that was located within 500 feet of the subject property and that, as such, recused himself from discussion of this item and left the dias.

Council Member Bressette removed this item from the Consent Calendar to discuss the preliminary concept design for the La Paz Open Space Project and discussed his concerns with the scope of the project.

Richard Fisher, Architect from Richard Fisher Associates, spoke on the initiation of the public process and design services for the La Paz Open Space Project, CIP No. 615A and answered questions from the City Council.

A SUBSTITUTE MOTION WAS MADE TO APPROVE THE ITEM AND LET THE DESIGN PROCESS MOVE FORWARD, BY M/COUNCIL MEMBER SONGSTAD, S/COUNCIL MEMBER KOGERMAN.
MOTION FAILED BY A VOTE OF 2-2-1 (COUNCIL MEMBER BRESSETTE AND MAYOR CARRUTH VOTING NO, MAYOR PRO TEMPORE LAUTENSCHLEGER ABSENT).

THE CITY COUNCIL APPROVED THE PROFESSIONAL SERVICES AGREEMENT WITH RICHARD FISHER ASSOCIATES FOR LANDSCAPE ARCHITECTURE DESIGN SERVICES FOR THE LA PAZ OPEN SPACE PROJECT, CIP NO. 615A, SUBJECT TO REVISING THE SCOPE OF WORK TO INCLUDE AT TASK 8-A, TO RETURN TO THE CITY COUNCIL WITH A PRESENTATION OF THE CONCEPT PLANS, BY M/COUNCIL MEMBER SONGSTAD, S/COUNCIL MEMBER KOGERMAN.
APPROVED BY A VOTE OF 4-0-1 (MAYOR PRO TEMPORE LAUTENSCHLEGER ABSENT).

Mayor Pro Tempore Lautenschleger returned to the meeting.

5. 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 8:32 PM.

5.1 ROLL CALL OF PLANNING AGENCY MEMBERS

Present: Chair Carruth, Vice Chair Lautenschleger, Agency Member Bressette, Agency Member Kogerman, and Agency Member Songstad

5.2 PUBLIC COMMENTS

There were no Public Comments.

5.3 MINUTES

5.3.1 REGULAR MEETING, NOVEMBER 13, 2012

MOTION TO APPROVE THE MINUTES OF THE NOVEMBER 13, 2012, REGULAR MEETING, BY M/AGENCY MEMBER SONGSTAD, S/VICE CHAIR LAUTENSCHLEGER.
APPROVED BY A VOTE OF 5-0.

5.4 PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency Public Hearings.

PLANNING AGENCY ADJOURNMENT

Mayor Carruth reconvened the City Council meeting at 8:33 PM. All Council Members were present.

6. CITY COUNCIL PUBLIC HEARINGS

6.1 ZONING TEXT AMENDMENT NO. 04-12-2230, AN AMENDMENT TO TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO ALLOW EMERGENCY SHELTERS BY-RIGHT IN THE MIXED USE ZONE AND TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS RESIDENTIAL USES IN ALL RESIDENTIAL ZONES IN ORDER TO COMPLY WITH STATE REQUIREMENTS GENERALLY KNOWN AS "SB 2."

Mayor Carruth opened the Public Hearing upon seeing no one rise, closed the Public Hearing.

THE CITY COUNCIL INTRODUCED FOR FIRST READING, READ BY TITLE ONLY, AND WAIVED FURTHER READING OF, AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO ALLOW EMERGENCY SHELTERS BY-RIGHT IN THE MIXED USE ZONE AND TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS RESIDENTIAL USES IN ALL RESIDENTIAL ZONES IN ORDER TO COMPLY WITH STATE REQUIREMENTS GENERALLY KNOWN AS "SB 2," BY M/MAYOR CARRUTH, S/MAYOR PRO TEMPORE LAUTENSCHLEGER.
APPROVED BY A VOTE OF 4-1, (COUNCIL MEMBER SONGSTAD VOTING NO.)

7. ADMINISTRATIVE REPORTS

7.1 City Manager

7.1.1 2012 CITY MANAGER'S YEAR END REPORT

THE CITY COUNCIL RECEIVED AND FILED THE 2012 CITY MANAGER'S YEAR END REPORT, BY M/COUNCIL MEMBER BRESSETTE, S/COUNCIL MEMBER SONGSTAD.
APPROVED BY A VOTE OF 5-0.

7.2 Assistant City Manager

7.2.1 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAGUNA HILLS AND THE LAGUNA HILLS CITY EMPLOYEES ASSOCIATION

Dr. Dore Gilbert, Laguna Hills Council-Member Elect, spoke in support of the Memorandum of Understanding between the City of Laguna Hills and the Laguna Hills City Employees Association.

Andrew Blount, Laguna Hills Council-Member Elect, spoke in support of the Memorandum of Understanding between the City of Laguna Hills and the Laguna Hills City Employees Association.

THE CITY COUNCIL APPROVED AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAGUNA HILLS AND THE LAGUNA HILLS EMPLOYEES ASSOCIATION, BY M/COUNCIL MEMBER BRESSETTE, S/MAYOR PRO TEMPORE LAUTENSCHLEGER.
APPROVED BY A VOTE OF 5-0.

7.3 Community Development Director

7.3.1 ADOPTION OF AN ORDINANCE APPROVING AND ADOPTING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAGUNA HILLS AND LAGUNA HILLS INVESTMENT COMPANY

THE CITY COUNCIL CONDUCTED THE SECOND READING, READ BY TITLE ONLY, WAIVED FURTHER READING OF, AND ADOPTED ORDINANCE NO. 2012-4, AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING AND ADOPTING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAGUNA HILLS AND LAGUNA HILLS INVESTMENT COMPANY FOR THE OAKBROOK VILLAGE SHOPPING CENTER REDEVELOPMENT PROJECT, BY M/COUNCIL MEMBER SONGSTAD, S/COUNCIL MEMBER BRESSETTE.
APPROVED BY A VOTE OF 5-0.

8. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS AND MAYOR

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

9. CITY COUNCIL MEMBER COMMENTS

COUNCIL MEMBER BRESSETTE

Council Member Bressette asked why the Ordinances were read by title during the motions.

City Attorney Simonian indicated that historically the City had a standing Consent Calendar item concerning the adoption of Ordinances. Mr. Simonian stated in an effort to update and refresh the City Council Agenda, it was determined that it would be in the best interest of the City to make the Agenda self-contained and eliminate the Consent Calendar item.

COUNCIL MEMBER KOGERMAN

Council Member Kogerman congratulated City Manager Channing on the birth of his grandson.

10. CLOSED SESSION

Mayor Carruth recessed the meeting into Closed Session at 9:15 PM.

10.1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to Government Code Section 54956.8

Property:	24031 El Toro Road, Suite 300, Laguna Hills
Agency Negotiator:	Bruce Channing, City Manager, and Don White, Assistant City Manager
Negotiating Parties:	City of Laguna Hills and Jon W. Swallow on behalf of Dayle McIntosh Center
Under Negotiation:	Terms and Conditions of Lease Payment

Mayor Carruth reconvened the meeting at 9:19 PM. All Council Members were present.

City Attorney Simonian indicated that no reportable action was taken by the City Council in Closed Session.

ADJOURNMENT

There being no further business before the City Council at this session. Mayor Carruth declared the meeting adjourned at 9:20 PM.

____
PEGGY J. JOHNS, CITY CLERK

ATTEST:

____
, MAYOR

APPROVED AT MEETING OF ________________________

City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: DONALD J. WHITE, ASSISTANT CITY MANAGER

ISSUE: APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED DECEMBER 11, 2012.

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER IN THE AMOUNT OF $216,454.75.

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:

DONALD J. WHITE
Assistant City Manager

12-4-12
DATE

FISCAL IMPACT:

The warrant register total is $216,454.75.

ATTACHMENTS:

1. **Warrant Register**

12/11/2012 ITEM NO. 4.1

CITY OF LAGUNA HILLS
WARRANT REGISTER
December 11, 2012

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
PREPAID WARRANTS:			
AT&T	*Communication Expense, Administrative Services Fax Line, Nov '12*	8804440	$ 63.48
BLOUNT, ANDREW	*Refund, Candidate Statement Fee*	8804442	209.00
CHEVRON	*Vehicle Fuel, Nov '12*	8804447-451	2,440.51
EL TORO WATER DISTRICT	*Water Usage, Parks, Oct '12*	8804456	12,780.57
EVERBANK COMMERCIAL FINANCE	*Lease - Copier, City Hall, Nov '12*	8804423	221.04
GILBERT, DORE	*Refund, Candidate Statement Fee*	8804459	209.00
HUNT, BILL	*Refund, Candidate Statement Fee*	8804463	209.00
MATHUR, RAGHU	*Refund, Candidate Statement Fee*	8804468	209.00
MOBILE MINI, INC.	*Storage Rental Fee, Community Services, Nov '12*	8804424	82.97
OROS CONSULTING SERVICES, LLC	*Professional Fees, Computer Consulting Services, Nov '12*	8804471	4,810.00
RALPHS GROCERY COMPANY	*Program Supplies, Community Services, Oct '12*	8804474	170.43
REFUND, FACILITY RENTAL DEPOSIT	*Laguna Hills Little League V# 2002600.002*	8804426	500.00
REFUND, FACILITY RENTAL DEPOSIT	*M. Bernardino, V# 2002583.002*	8804427	500.00
REFUND, FACILITY RENTAL DEPOSIT	*National Guardian Network,V# 2002585.002*	8804428	250.00
REFUND, FACILITY RENTAL DEPOSIT	*J. Arambulo, V# 2002607.002*	8804429	500.00
REFUND, FACILITY RENTAL DEPOSIT	*J. Escueta, V# 2002612.002*	8804430	250.00
REFUND, FACILITY RENTAL DEPOSIT	*S. Herrera, V# 2002609.002*	8804431	250.00
REFUND, FACILITY RENTAL DEPOSIT	*L. Hughes, V# 2002608.002*	8804432	222.50
REFUND, FACILITY RENTAL DEPOSIT	*L. Tate, V# 2002604.002*	8804433	250.00
REFUND, FACILITY RENTAL DEPOSIT	*J. Brady, # V# 2002581.002*	8804434	182.50
REFUND, FACILITY RENTAL DEPOSIT	*Ketterman College Funding, V# 2002605.002*	8804435	250.00
REFUND, FACILITY RENTAL DEPOSIT	*First Church of Christ, V# 2002615.002*	8804436	500.00
REFUND, FACILITY RENTAL FEE	*Laguna Hills Little League V# 2002599.002*	8804425	500.00
SOCAL OFFICE TECHNOLOGIES-LEAS	*Lease - Copier, Community Center, Nov '12*	8804437	731.21

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
SOUTHERN CALIFORNIA EDISON	*Electric Usage, Street Lights and Traffic Control, Oct '12*	8804438	627.23
SOUTHERN CALIFORNIA EDISON	*Electric Usage, Street Lights and Traffic Control, Oct '12*	8804479	1,120.71
	Total Prepaid Warrants:		**$ 28,039.15**
REGULAR WARRANTS:			
ASSOCIATION OF CA CITIES -OC	*Meeting Expense, Administrative Services, Nov '12*	8804439	$ 55.00
ATHALYE CONSULTING ENGINEERING	*Professional Fees, La Paz Widening @ I-5 CIP # 159*	8804441	8,900.00
BUREAU VERITAS NORTH AMERICA	*Professional Fees, On-Call Inspections, Oct '12*	8804443	6,460.00
C&D ELECTRIC, INC.	*Lighting Repairs and Inspections, Parks, Oct - Nov '12*	8804444	1,374.55
C2 REPROGRAPHICS	*Printing Expense, Engineering and City Clerk, Nov '12*	8804445	86.13
CDW GOVERNMENT, INC.	*Computer Hardware, Community Development, Nov '12*	8804446	778.68
CODE PUBLISHING COMPANY, INC.	*Online Municipal Code, Web Hosting Fee, City Clerk, Nov '12 - Nov '13*	8804452	350.00
CROP PRODUCTION SERVICES, INC.	*Program Expense, Community Services, Nov '12*	8804453	166.43
DALEY & HEFT, LLP	*Professional Fees, Legal Services, Sep - Oct '12*	8804454	4,463.25
DLR GROUP	*Professional Fees, Administrative Services, Oct '12*	8804455	375.97
ELKINS, CHRISTINA	*Contract Instructor Fee, Dancing Fall Session, Community Services*	8804457	1,864.80
FIVE STAR TROPHIES	*Office Supplies, Nov '12*	8804458	140.08
GRC ASSOCIATES, INC.	*Professional Fees, Aliso Meadows Rehabilitation Project, Sep - Nov '12*	8804460	10,407.50
HARTZOG & CRABILL, INC.	*Professional Fees, Traffic Signal Improvement Coordination CIP # 168*	8804461	13,088.40
HEART OF GOLD FOUNDATION, INC.	*Contract Instructor Fee, Cooking Class Fall Session, Community Services*	8804462	220.50
IRON MOUNTAIN OFFSITE	*Off Site Data Storage, Oct '12*	8804464	208.26
JAMEY CLARK, INC.	*Miscellaneous Park Repairs and Graffiti Removal, Oct - Nov '12*	8804465	858.84
JOE A. GONSALVES & SON	*Professional Fees, Legislative Services, Dec '12*	8804466	2,900.00
LUCY, STEVEN	*Program Expense, Community Services, Dec '12*	8804467	450.00
NIEVES LANDSCAPE, INC.	*Other Assorted Landscape Services, Nov '12*	8804469	3,750.00

CITY OF LAGUNA HILLS
WARRANT REGISTER
December 11, 2012

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
OFFICE SOLUTIONS	*Office and Operating Supplies, Nov '12*	8804470	437.52
ORANGE COUNTY TREASURER	*Road Maintenance, Oct '12*	8804476	94,788.80
PACK, DWAYNE	*Event Promotional Services, 1/2 Marathon and 5K Event, Community Services, May '13*	8804472	225.50
QUIKSILVER COURIER	*Delivery Services, Nov '12*	8804473	29.64
RICHARD FISHER ASSOCIATES	*Professional Fees, On-Call Inspections, Nov '12*	8804475	600.00
SIRE TECHNOLOGIES	*Agenda Software and Training, Aug '12*	8804477	3,845.00
SOCAL OFFICE TECHNOLOGIES	*Printer, Maintenance and Supplies, Dec '12*	8804478	600.81
SPORTS FIELD SERVICES	*Retention Payment, Community Center and Sports Field Renovation CIP # 238*	8804480	8,136.22
SUNSET PROPERTY SERVICES	*Graffiti Removal, Nov '12*	8804481	1,275.00
WEST COAST ARBORISTS, INC.	*Tree Planting, Urban Reforestation, CIP # 320 and Tree Trimming, Sep - Oct '12*	8804482	21,254.00
YALE CHASE MATERIALS HANDLING	*Maintenance, Utility Cart, Community Center, Nov '12*	8804483	324.72
	Total Regular Warrants:		**$ 188,415.60**
	*****WARRANT REGISTER TOTAL*****		**$ 216,454.75**

City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: PEGGY J. JOHNS
CITY CLERK

ISSUE: AFFIRMATION OF APPOINTMENTS LIST FOR ALL 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.

SUMMARY:

In accordance with State Law, Government Code Section 54972 (also known as “The Maddy Act”), the City Council must prepare and post a Local Appointments List for all City Boards, Commissions and Committees, prior to December 31, 2012.

BACKGROUND:

The State Legislature found that there was a vast and largely untapped reservoir of talent existing among the citizenry of the State of California and that this great human resource was not, all too frequently, aware of the many opportunities which exist to participate in and serve on local regulatory and advisory boards, commissions, and committees. In order to provide access to information regarding vacancies which occur on local boards, commissions, and committees, Government Code Section 54972 requires that each legislative body prepare a Local Appointments List on or before December 31st of each year, consisting of the following:

- A list of appointive terms, which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires, and the necessary qualifications for the position.

- A list of all boards, commissions, and committees whose members serve at the pleasure of the legislative body and the necessary qualifications for each position.

A Local Appointments List for the City of Laguna Hills is attached. After the City Council takes action to affirm the list, a copy of the list will be posted in the Laguna Hills Branch Technology Library at the Community Center.

ATTACHMENTS:

- Local Appointments List

LOCAL APPOINTMENTS LIST
Ongoing City Boards, Commissions and Committees
(Pursuant to Government Code Section 54972 et seq.)

Parks and Recreation Commission

Established by:	Resolution No. 92-04-14-5 Amended by Resolution No. 96-02-13-1 Amended by Resolution No. 2005-09-13-1 Amended by Resolution No. 2006-01-10-1 Amended by Resolution No. 2009-08-25-4
Number of Members:	Five
Term of Office	Four-Year Staggered Terms
Qualifications:	All Commission Members, at all times during their incumbencies, must be a bona fide resident and registered voter of the City of Laguna Hills.

Incumbents	Date Appointed	Date of Oath	Date Term Expires
Daniel Cooper	01/18/2003	01/28/2003	01/31/2015
Mark Jones	01/14/2004	01/27/2004	01/31/2013
Jeffrey McConnell	01/12/2011	01/25/2011	01/31/2015
Jack Noenickx	01/18/2005	01/25/2005	01/31/2015
Farid Tabrizy	11/22/2011	11/22/2011	01/31/2013

Traffic Commission

Established by:	Resolution No. 92-02-25-4 Amended by Resolution No. 96-04-23-2 Amended by Resolution No. 2005-09-13-2
Number of Members:	Five
Term of Office	Four-Year Staggered Terms
Qualifications:	All Commission Members, at all times during their incumbencies, must be a bona fide resident and registered voter of the City of Laguna Hills.

Incumbents	Date Appointed	Date of Oath	Date Term Expires
Pamela Dow	02/03/1998	02/10/1998	01/31/2013
Rick Frazier	01/15/2002	01/22/2002	01/31/2013
Donald Froelich	01/18/2005	01/25/2005	01/31/2015
Timothy Hillis	01/17/2006	01/24/2006	01/31/2013
Stephen (Ed) Rowe	01/12/2011	01/25/2011	01/31/2015

City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: PEGGY J. JOHNS
CITY CLERK

ISSUE: UPDATING DESIGNATION OF ASSISTANT AND DEPUTY CITY ATTORNEYS

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING SECTION 3 OF RESOLUTION NO. 2005-11-22-2 REGARDING THE DESIGNATION OF ASSISTANT AND DEPUTY CITY ATTORNEYS."

SUMMARY:

It is proposed that the City Council adopt a Resolution updating the designation of certain members of the law firm of Woodruff, Spradlin & Smart to serve as assistant city attorneys and deputy city attorneys, in accordance with the Laguna Hills Municipal Code.

BACKGROUND:

Chapter 2-20 of the Laguna Hills Municipal Code establishes the office of City Attorney. Chapter 2-20 specifies that the City Attorney's office shall include those assistant and deputy city attorneys as may be authorized by the City Council. Resolution No. 2005-11-22-2 appointed the City Attorney, authorized the execution of a Retainer Agreement with the law firm of Woodruff, Spradlin & Smart, and designated certain attorneys within the law firm to serve as assistant and deputy city attorneys. It is recommended that the City Council update the members of the firm that are designated to serve as assistant and deputy city attorneys, as set forth in the attached Resolution.

ATTACHMENTS:

- Resolutions

RESOLUTION NO. 2012-12-11-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING SECTION 3 OF RESOLUTION NO. 2005-11-22-2 REGARDING THE DESIGNATION OF ASSISTANT AND DEPUTY CITY ATTORNEYS.

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

WHEREAS, Chapter 2-20 of the Laguna Hills Municipal Code establishes the office of City Attorney and provides that the City Attorney shall administer the office and shall serve under the direct supervision and control of the City Council as its legal advisor, and that the City Attorney shall perform the functions set forth in Section 2-20.030 of the Laguna Hills Municipal Code; and

WHEREAS, Chapter 2-20 specifies that the City Attorney's office shall include those Assistant and Deputy City Attorneys as may be authorized by the City Council; and

WHEREAS, on November 22, 2005, the City Council adopted Resolution No. 2005-11-22-2 appointing the City Attorney, authorizing execution of a Retainer Agreement with the law firm of Woodruff, Spradlin & Smart, and designating certain attorneys within the firm as assistant and deputy city attorneys; and

WHEREAS, it is in order to update those members of the firm that are to serve as designated assistant and deputy city attorneys.

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

SECTION 1. Section 3 of Resolution No. 2005-11-22-2 is hereby amended in its entirety to read as follows:

The following members of the law firm of Woodruff, Spradlin & Smart are hereby designated as Assistant and Deputy City Attorneys, pursuant to Section 2-20.010 of the Laguna Hills Municipal Code:

Assistant City Attorneys:

Craig C. Farrington
Joseph W. Forbath
Douglas C. Holland
Kennard R. Smart
Thomas F. Nixon
Omar Sandoval
Daniel K. Spradlin
Caroline A. Byrne
David E. Kendig
James M. Donich

Deputy City Attorneys:

M. Lois Bobak
Patrick M. Desmond
James H. Eggart
Bradley R. Hogin
Laura A. Morgan
Barbara Raileanu
Jason McEwen
Alyson C. Suh
Bobbie Kraus
Esther Lin
Jennifer Radaich
Ricia Hager
Steve Rader
Tram Tran
Christina M. Petteruto
Kane Thuyen
Anna Salusky
Cynthia Kole
Brian Moore

PASSED, APPROVED, AND ADOPTED this 11th day of December 2012.

____
, MAYOR

ATTEST:

____
PEGGY JOHNS, CITY CLERK

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

I, Peggy Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2011-12-11- adopted by the City Council of the City of Laguna Hills, California, at a regular meeting thereof, held on the 11th of December 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
PEGGY JOHNS, CITY CLERK

City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: DONALD J. WHITE
ASSISTANT CITY MANAGER

ISSUE: MEASURE M2 EXPENDITURE REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2012

RECOMMENDATION: THAT THE CITY COUNCIL: (1) APPROVE THE MEASURE M2 EXPENDITURE REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2012, FOR SUBMITTAL TO OCTA; AND (2) ADOPT A RESOLUTION ENTITLED: "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."

SUMMARY:

With the passage of Renewed Measure M (M2), local agencies must demonstrate eligibility and follow safeguard requirements, in order for local jurisdictions to receive M2 fair share and competitive program funds. The Orange County Transportation Authority's (OCTA) Ordinance No. 3 (M2 Ordinance) identifies the eligibility and safeguard requirements that must be met. One requirement under the M2 Ordinance is that each local agency must adopt and provide an expenditure report (in the form provided by OCTA) to OCTA each year within six months of the end of the local jurisdiction's fiscal year to account for M2 funds. The City Council is requested to review and approve the attached Measure M2 Expenditure Report for the fiscal year ended June 30, 2012, and adopt the attached Resolution for submittal to OCTA, as required by Measure M2 Local Transportation Authority Ordinance No. 3.

BACKGROUND:

On November 7, 2006, the Orange County voters approved the renewal of the Measure M one-half cent sales tax for transportation improvements. This renewal plan is designated as Measure M2 and provides funding for 30 years to relieve traffic congestion. As part of Measure M2, taxpayer safeguards and audits are provided for to ensure appropriate use of funds.

One new safeguard requirement under the M2 Ordinance is for each local agency to adopt and provide an annual expenditure report to OCTA each year in the template form provided by OCTA. This expenditure report is a detailed financial report used to track financial activity to account for M2 funds, developer/traffic impact fees, and funds expended by the jurisdiction to satisfy Maintenance of Effort (MOE) requirements. The report includes all M2 net revenue, fund balances and interest earned, and will identify expenditure by activity type and funding source.

The report is required six months after each jurisdiction's fiscal year end and must be adopted by Resolution before submittal to OCTA. The attached M2 Expenditure Report demonstrates the City is in compliance with the requirements of M2.

FISCAL IMPACT:

Historically, Measure M provides approximately $500,000 of annual revenues to the City for street maintenance purposes. Failure to submit the M2 Annual Expenditure Report could suspend or delay M2 funding.

ATTACHMENTS

- Resolution Concerning the Measure M2 Expenditure Report
- M2 Expenditure Report for the Fiscal Year Ended June 30, 2012

RESOLUTION NO. 2012-12-11-X

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

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

WHEREAS, Local Transportation Authority Ordinance No. 3 requires local jurisdictions to adopt an annual Expenditure Report to account for Net Revenues, developer/traffic impact fees, and funds expended by local jurisdiction which satisfy the Maintenance of Effort requirements; and

WHEREAS, the Expenditure Report shall include all Net Revenue fund balances, interest earned and expenditures identified by type and program or project; and

WHEREAS, the Expenditure Report must be adopted and submitted to the Orange County Transportation Authority (OCTA) each year within six months of the end of the local jurisdiction's fiscal year to be eligible to receive Net Revenues as part of Measure M2.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY INFORM OCTA THAT:

A. The M2 Expenditure Report is in conformance with the M2 Expenditure Report Template provided in the Renewed Measure M Eligibility Guidelines and accounts for Net Revenues including interest earned, expenditures during the fiscal year and balances at the end of fiscal year.

B. The M2 Expenditure Report is hereby adopted for the City of Laguna Hills.

PASSED, APPROVED, AND ADOPTED this 11th day of December 2012.

______________________________, MAYOR

ATTEST:

____

PEGGY J. JOHNS, CITY CLERK

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

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. ________________ adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 11th day of December 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
PEGGY J. JOHNS, CITY CLERK

M2 Expenditure Report

Fiscal Year Ended June 30, 2012

Beginning and Ending Balance

Description	Line No.	Amount
Balances at Beginning of Fiscal Year		
M2 Fairshare	1	
M2 Fairshare Interest	2	
M2 CTFP	3	
M2 CTFP Interest	4	
Other M2 Funding	5	
Other M2 Interest	6	
Other*	7	
Balances at Beginning of Fiscal Year (Sum Lines 1 to 7)	8	$ -
Monies Made Available During Fiscal Year	9	$ 485,995
Total Monies Available (Sum Lines 8 & 9)	10	$ 485,995
Expenditures During Fiscal Year	11	$ 464,671
Balances at End of Fiscal Year		
M2 Fairshare	12	$ -
M2 Fairshare Interest	13	$ -
M2 CTFP	14	
M2 CTFP Interest	15	
Other M2 Funding	16	$ 21,324
Other M2 Interest	17	
Other*	18	

* Please provide a specific description

M2 Expenditure Report

Fiscal Year Ended June 30, 2012

Sources and Uses

Description	Line No.	Amount
Revenues:		
M2 Fairshare	1	$ 455,860
M2 Fairshare Interest	2	$ 694
M2 CTFP	3	
M2 CTFP Interest	4	
Other M2 Funding	5	$ 29,387
Other M2 Interest	6	$ 54
Other*	7	
TOTAL REVENUES (Sum lines 1 to 7)	8	$ 485,995
Expenditures:		
M2 Fairshare	9	$ 455,860
M2 Fairshare Interest	10	$ 694
M2 CTFP	11	
M2 CTFP Interest	12	
Other M2 Funding	13	$ 8,064
Other M2 Interest	14	$ 54
Other*	15	
TOTAL EXPENDITURES (Sum lines 9 to 15)	16	$ 464,671
TOTAL BALANCE (Subtract line 16 from 8)	17	$ 21,324

* Please provide a specific description

M2 Expenditure Report
Fiscal Year Ended June 30, 2012
Streets and Roads Detailed Use of Funds

Type of Expenditure	Line No.	*MOE	+ Developer / Impact Fees	M2 Fairshare	M2 Fairshare Interest	M2 CTFP	M2 CTFP Interest	Other M2	Other M2 Interest	Other	TOTAL
Agency Staff & Administration	1	$ 774,209						$ 8,064	$ 54		$ 782,327
Construction & Right-of-Way											
New Street Construction	2										$ -
Street Reconstruction	3	$ 34,214		$ -							$ 34,214
Signals, Safety Devices, & Street Lights	4	$ 8,112		$ 65,667							$ 73,779
Pedestrian Ways & Bikepaths	5										$ -
Storm Drains	6	$ 132,872									$ 132,872
Storm Damage	7										$ -
Total Construction	8	$ 175,198	$ -	$ 65,667	$ -	$ -	$ -	$ -	$ -	$ -	$ 240,865
Right of Way Acquisition	9										$ -
Total Construction & Right-of-Way	10	$ 175,198	$ -	$ 65,667	$ -	$ -	$ -	$ -	$ -	$ -	$ 240,865
Maintenance											
Patching	11	$ 159,502		$ 390,193	$ 694						$ 550,388
Overlay & Sealing	12										$ -
Street Lights & Traffic Signals	13	$ 567,062									$ 567,062
Storm Damage	14										$ -
Other Street Purpose Maintenance	15	$ 119,914									$ 119,914
Total Maintenance	16	$ 846,478	$ -	$ 390,193	$ 694	$ -	$ -	$ -	$ -	$ -	$ 1,237,365
Other	17	$ 26,983									$ 26,983
GRAND TOTALS (Sum Lines 1, 10, 16, 17)	18	$ 1,822,868	$ -	$ 455,860	$ 694	$ -	$ -	$ 8,064	$ 54	$ -	$ 2,287,539

* Local funds used to satisfy maintenance of effort (MOE) requirements
+ Transportation related only $ 0

M2 Expenditure Report
Fiscal Year Ended June 30, 2012
Local Fair Share Project List

PROJECT NAME	AMOUNT EXPENDED
CIP 145 Paseo de Valencia Widening	65,666.80
Street Maintenance	390,886.73
	$ 456,553.53

M2 Expenditure Report

Fiscal Year Ended June 30, 2012

I certify that all the information attached herein is true and accurate to the best of my knowledge:

____

Director of Finance

City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: DONALD J. WHITE
ASSISTANT CITY MANAGER

ISSUE: LEASE AGREEMENT WITH THE DAYLE MCINTOSH CENTER AND LEASE TERMINATION AGREEMENT WITH THE SOUTH ORANGE COUNTY REGIONAL CHAMBERS OF COMMERCE FOR 24031 EL TORO ROAD, SUITE 300, LAGUNA HILLS, CALIFORNIA

RECOMMENDATION: THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO: (1) EXECUTE A LEASE TERMINATION AGREEMENT WITH THE SOUTH ORANGE COUNTY REGIONAL CHAMBERS OF COMMERCE FOR 24031 EL TORO ROAD, SUITE 300, LAGUNA HILLS, CALIFORNIA; AND (2) EXECUTE LEASE DOCUMENTS WITH THE DAYLE MCINTOSH CENTER FOR 24031 EL TORO ROAD, SUITE 300, LAGUNA HILLS, CALIFORNIA.

SUMMARY:

On August 24, 2010, the City Council approved a three-year lease term with the South Orange County Chambers of Commerce (Chamber) for Suite 300. The lease expires on August 31, 2013. A few months ago, the Chamber notified staff that they no longer needed the space in Suite 300 and would be looking to sub-lease the space. At that time, the City began marketing the Suite. Staff has negotiated a lease deal with the Dayle McIntosh Center for general office use under a two-year lease term beginning December 21, 2012. The lease also includes a two-year option at market rates. Since this is prior to the expiration of the lease with the Chamber, staff is also recommending that the City Council authorize the City Manager to execute a Lease Termination Agreement with the Chamber to coincide with the Dayle McIntosh Center lease.

FISCAL IMPACT:

This lease will generate $29,780 in rental revenues over the next two years and has a Net Present Value of $15,395.

ATTACHMENTS

- Lease Termination Agreement with the South Orange County Chambers of Commerce.
- Lease with Dayle McIntosh Center.

LEASE TERMINATION AGREEMENT

This Lease Termination Agreement ("Agreement") is made as of November 29, 2012 (the **"Effective Date"**), by and between **The City of Laguna Hills** ("**Lessor**"), and **South County Regional Chambers of Commerce,** ("**Lessee"**).

Lessor and Lessee are parties to that certain Multi-Lessee Office Lease with an Effective Date of July 22, 2010 (the "**Lease**"), pursuant to which Lessor leased to Lessee those certain premises known as 24031 El Toro Road, Suite 300, Laguna Hills, CA 92653, as more particularly described in the Lease. All capitalized terms not defined in this Agreement shall have the meanings given them in the Lease.

Lessor and Lessee have now agreed to terminate the Lease in accordance with the terms of this Agreement. Accordingly, in consideration of the mutual covenants and promises of the parties set forth in this Agreement, Lessor and Lessee agree as follows:

1. Termination. The Lease shall be terminated effective as of **December 14, 2012** (the "**Termination Date**") as if that were the originally scheduled expiration date of the Lease. Lessee shall continue to make all payments of rent and other amounts owing under the Lease up to the Termination Date. Except as otherwise provided in this Agreement, from and after the Termination Date neither Lessor nor Lessee shall have any further rights or obligations pursuant to the Lease, and Lessor and Lessee shall each be fully and unconditionally released and discharged from their respective obligations arising with respect to the Lease, whether accrued prior to or after the Termination Date. Without in any way limiting the foregoing, there shall be no reconciliation of operating costs or taxes after the Termination Date. Lessor and Lessee also release and discharge each other from any claims or causes of action related to or arising out of the Lease, the Premises or the Building. The foregoing shall not, however, prevent either party from enforcing its rights under this Agreement.

2. Surrender of Premises. Lessee shall surrender the Premises to Lessor on the termination Date Lessee shall pay for the carpets to be cleaned, with no further restoration required.

3. Costs and Expenses. Each party shall be responsible for paying its own costs and expenses (including attorneys' fees) with respect to the negotiation and preparation of this Agreement.

4. Entire Agreement. There are no oral or side agreements between Lessor and Lessee affecting this Agreement and this Agreement contains the entire agreement of the parties with respect to the subject matter herein contained. This Agreement may not be modified or amended except by a writing executed by Lessor and Lessee. In the event of any conflict between the terms of the Lease and the terms of this Agreement, the terms of this Agreement shall prevail. This Agreement may be executed in counterparts, all of which shall constitute one and the same agreement and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

5. Consents. Lessor represents and warrants that it has obtained all necessary consents to this Agreement, including any consents required by Lessor's lenders.

DATED as of the day and year first above written.

LESSOR: The City of Laguna Hills

By: ____________________
Bruce Channing, City Manager

By: ____________________
Peggy J. Johns, City Clerk

Approved as to Form:

By: ____________________
Gregory E. Simonian, City Attorney

LESSEE:

South County Regional Chambers of Commerce

By: ___________________________

By: ______________________________

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 December 11, 2012, is made by and between The City of Laguna Hills ("**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) 300, third floor(s), consisting of approximately 664 rentable square feet and approximately 561 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 51,946 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**: Two years and 0 months ("**Original Term**") commencing December 21, 2012 ("**Commencement Date**") and ending December 20,2014 ("**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**: $1,294.80 per month ("**Base Rent**)", payable on the first day of each month commencing December 21,2012. (See also Paragraph 4)

þ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See ~~Paragraph~~ Addendum

1.6 **Lessee's Share of Operating Expense Increase**: 1.28 percent (1.28%) ("**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**: $1,294.80 for the period December 21, 2012-January 20, 2013.

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

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

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

(e) **Total Due Upon Execution of this Lease**: $2,589.60.

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

1.9 **Base Year; Insuring Party**. The Base Year is 2013. Lessor is the "**Insuring Party**". (See also Paragraphs 4.2 and 8)

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

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

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

þ Newmark Grubb Knight Frank represents Lessee exclusively ("**Lessee's Broker**"); or

¨ ______ 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 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 8:00 a.m. to 1:00 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 ______.

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): ____________________

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

☒ an Addendum consisting of Paragraphs 1 through 11;

☐ a plot plan depicting the Premises;

☐ a current set of the Rules and Regulations;

☐ a Work Letter;

☐ a janitorial schedule;

☒ other (specify): Exhibits A, B, C, D

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.

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. 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 (Paragraphs 8.2 & 8.3 of the Addendum to this Lease ~~8.5~~). 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 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.

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(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 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)

~~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**. 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. Lessee shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any improvements with 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 $2000. 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.

(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.

(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) ~~**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. Lessee shall provide Lessor with written evidence that such insurance is in force.~~

~~(b) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements.~~

~~(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, 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

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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 the Addendum to this Lease ~~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 the Addendum to this Lease. ~~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 the Addendum to this Lease ~~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 damages under Paragraph 12. 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 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 as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for nonscheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to nonscheduled payments. 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**. If a separate brokerage fee agreement is attached then 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 schedule attached to such brokerage fee agreement.~~

~~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.

(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) <u>Lessor's Agent.</u> 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: <u>To the Lessor:</u> A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. <u>To the Lessee and the Lessor:</u> 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) <u>Lessee's Agent.</u> 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. <u>To the Lessee:</u> A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. <u>To the Lessee and the Lessor:</u> 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) <u>Agent Representing Both Lessor and Lessee.</u> 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 an 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 þ is not attached to this Lease.

49. **Americans with Disabilities Act**. 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:
On:	On:
By LESSOR:	**By LESSEE:**
The City of Laguna Hills	Dayle McIntosh Center for the Disabled Inc., a California corporation
By:	By:
Name Printed: Bruce E Channing	Name Printed: Dolores Kollmer
Title: City Manager	Title: Executive Director
By:	By:
Name Printed: Peggy Johns	Name Printed:
Title: City Clerk	Title:
Address: 24031 El Toro Road, Suite 200 Laguna Hills, CA 92653	Address:
Telephone:( )	Telephone:( )
Facsimile:( )	Facsimile:( )
Federal ID No.	Federal ID No.

LESSOR'S BROKER:	**LESSEE'S BROKER:**
Essex Realty Management Inc.	Newmark Grubb Knight Frank
Attn: Sandi Montez	Attn: Jon Swallow
Address: 111 Corporate Drive, Suite 110 Ladera Ranch, CA 92694	Address: 4675 MacArthur Court, Suite 1600 Newport Beach, CA 92660
Telephone:(949) 218-3801	Telephone:(949) 608-2000
Facsimile:(949) 218-3804	Facsimile:(949) 608-2003
Broker/Agent DRE License #: 00965485	Broker/Agent DRE License #: 00812184

Approved as to Form:

By:____________________________________

Gregory E Simonian, City Attorney

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 December 11, 2012, 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
12/21/2012	12/20/2013	$1,294.80
12/21/2013	1/20/2014	$0
1/21/2014	12/20/2014	$1,294.80

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.

7. Option to Renew. Lessee shall have one option to renew for an additional 24 months at a rental rate adjusted to fair market value. Lessee shall notify Lessor in writing of their desire to exercise their option not more than 6 months, nor less than 3 months prior to the termination of the original lease term.

8. Council Chambers. Lessee shall be permitted to use the council chambers meeting room, all dates of use must be approved by the City of Laguna Hills. Rental rates for the use are $75.00 per hour with a two hour minimum.

9. Signage. Lessee shall have the right to place their name on the two lobby directories and on the wall next to their suite using building standard signage. Lessor shall pay 50% of the initial signage expense for the Lessee. Additional signage may be added at Lessee's expense and may include the name of any approved sublessee. All additional signage must be approved in advance by Lessor.

10. Relocation of Premises. Should the Lessor elect to relocate the Lessee, the Lessor shall give the Lessee 120 days notice and the new Premises shall be of similar size, build out and finishes. The Lessor shall pay for all reasonable costs incurred by the Lessee had they not relocated.

11. Any reference to "Days" that is noted as less than (10) days shall be modified to mean "Ten (10) business days".

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

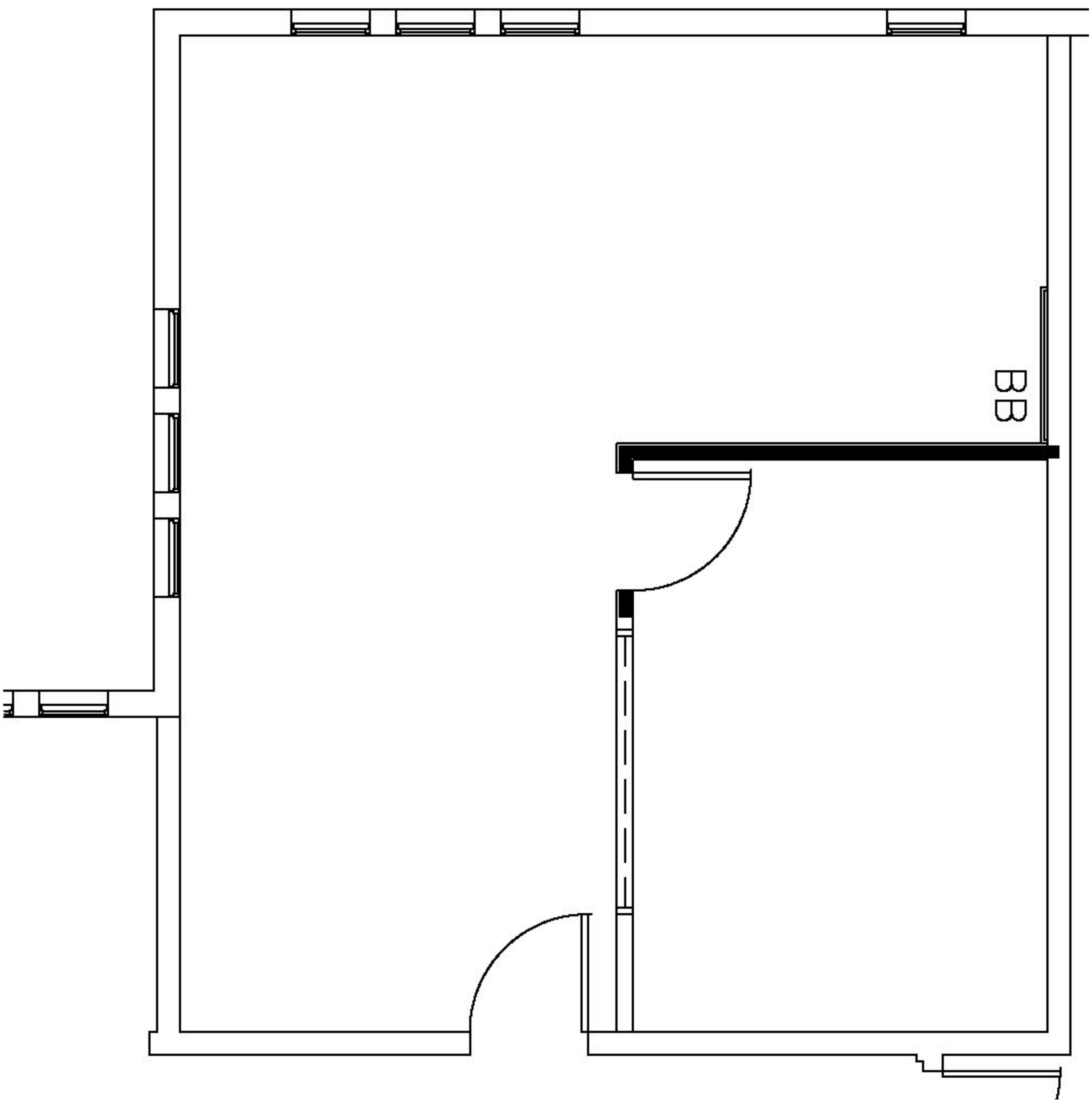
"Lessee"
Dayle McIntosh Center for the Disabled Inc., a California corporation

By: Dolores Kollmer
____

Its: Executive Director

LAGUNA HILLS CIVIC CENTER

24031-24035 El Toro Road, Laguna Hills



24031-300 El Toro Road
Laguna Hills, CA 92653
± 664 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: ____________________ Date: ___________________

Lessor's Initials: ___________________ Lessee's Initials: ________________

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 Tenant, on behalf of itself, its officers, heirs, agents, shareholders, employees, subcontractors, executors, successors and assigns, shall and does hereby release and discharge Landlord, 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.

Initial __________

EXHIBIT "D"

REQUIREMENTS FOR IMPROVEMENTS OR ALTERATIONS BY LESSEE

If Lessor shall permit Lessee to construct any interior improvements (subsequent to the initial Improvements which shall be constructed by Lessor) 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 <u>Attachment 1</u>.

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

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 Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: DONALD J. WHITE
ASSISTANT CITY MANAGER

ISSUE: ANNUAL REVIEW OF INVESTMENT POLICIES AND DELEGATION OF INVESTMENT AUTHORITY TO THE CITY TREASURER

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "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. 2011-12-13-2."

SUMMARY:

State law requires that the City Council annually review the City's written investment policies at a public meeting. It also allows the City Council to delegate its investment authority to the City Treasurer for up to one year at a time. Staff is not recommending any revision to the existing policies, which are in accordance with the "Recommended Best Practices" promulgated by the Committee on Cash Management and Investment of the Government Finance Officers Association. A Resolution to adopt the policies and delegate the investment authority to the City Treasurer for the year 2012 is attached for your approval.

Pursuant to Government Code Section 53646, the City Treasurer is required to render to the City Council an annual statement of investment policy. The current policies were reviewed by the City's independent auditors in connection with the audit of the City's financial statements for the fiscal year ended June 30, 2012. The "Investment and Portfolio Policies" for the City and the Public Improvement Corporation is contained in Exhibit A of the attached updated Resolution.

ATTACHMENTS:

- Investment Resolution
- Exhibit A – Investment Policies

RESOLUTION NO. 2012-12-11-X

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. 2011-12-13-2.

WHEREAS, pursuant to Laguna Hills Municipal Code Section 2-15.020, the City Council has appointed the City Manager as the City Treasurer; and

WHEREAS, pursuant to Government Code Section 53607, the City Council may delegate its investment authority to the City Treasurer for up to one year; and

WHEREAS; pursuant to Government Code Section 53646, the City Council of the City of Laguna Hills, has publicly considered an annual statement of investment policy and desires to adopt such policy to guide the investments of the Deputy Treasurer, under the supervision of the City Treasurer.

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

SECTION 1. This Resolution rescinds Resolution No 2011-12-13-2.

SECTION 2. The City Council hereby delegates investment authority to the City Treasurer.

SECTION 3. The City Council hereby adopts the investment policy, attached hereto as Exhibit “A” and incorporated herein by this reference.

SECTION 4. The effective date of this Resolution is January 1, 2013.

PASSED, APPROVED, AND ADOPTED this 11th day of December 2012.

______________________________, MAYOR

ATTEST:

____
PEGGY J. JOHNS, CITY CLERK

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

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2012-12-11-X adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 11th day of December, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
PEGGY J. JOHNS, CITY CLERK

City of Laguna Hills

2013

INVESTMENT POLICIES

Investment and Portfolio Policies
Calendar Year 2013

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I Policy

It is the Policy of the City of Laguna Hills to invest in a manner, which will ensure the safety of public funds by mitigating credit and interest rate risk, and provide sufficient liquidity to meet all operating requirements. The City shall also strive to attain a return on investment that is reasonable given that safety of principal and liquidity are the primary objectives in these policies and yield is secondary. The investment program shall be operated in conformity with federal, state and other legal requirements, including the State of California Government Code Section 53601, et, seq., these policies and written administrative procedures.

II Scope

This investment policy applies to the investment of all funds of the City and the City of Laguna Hills Public Improvement Corporation, including the following:

General Fund
Special Revenue Funds
Capital Projects Funds
Funds Held Under Trust Indenture

These funds are accounted for in the City's Comprehensive Annual Financial Report.

Except for cash in certain restricted and special funds, the City will consolidate cash and reserve balances from all funds to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping and administration. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

Investments under the trust indenture will be held separately and made in accordance with the indenture requirements.

III Objectives

Funds of the City will be invested, by the City Treasurer, or authorized deputies of the Treasurer (hereinafter collectively referred to as "the Treasurer") in accordance with these policies and written administrative procedures. The primary objectives, in priority order, of investment activities shall be:

1) Safety

Safety of principal is the foremost objective of the City's investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio and the mitigation of credit risk and interest rate risk.

a) Credit Risk

Credit Risk is the risk of loss due to the failure of the security issuer or backer. Credit Risk may be mitigated by:

i. limiting investments to the safest types of securities listed under Section VI herein, which shall be limited to those investments backed by the U.S. Government, or an agency thereof, overnight accounts managed by the City's primary bank, the Local Agency Investment Fund (LAIF), and other specific investments described in Section VI;

ii. diversifying the portfolio to avoid concentration of securities from a specific issuer, except issuers of U.S. Treasury securities, so that the failure of any one issuer will not place an undue financial burden on the City;

iii. monitoring all of the City's investments on a frequent basis to anticipate and respond accordingly to a significant reduction of creditworthiness of any of the depositories, including the City's primary bank; and

iv. performing appropriate due diligence to assure the credit worthiness of any portfolio investment made.

b) Interest Rate Risk

Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates. To reduce interest rate risk, the City shall limit the maximum maturity horizon of the securities that comprise its portfolio, keeping in mind that the longer the maturity horizon, the greater the price volatility. In accordance with the Government Accounting Standards Board reporting requirements, the portfolio could show unrealized gains or losses for any reporting period.

Interest rate risk may be mitigated by:

i. structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity; and

ii. investing operating funds primarily in shorter-term securities.

2) Liquidity

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets (dynamic liquidity) and a portion of the portfolio should be invested in readily available funds, to ensure that appropriate liquidity is maintained to meet ongoing obligations.

3) Yield

The rate of return on the City's investment portfolio is of secondary importance to the safety and liquidity objectives described above. The City's investment strategy is passive and investments are limited to relatively low-risk securities in anticipation of earning a rate of return throughout budgetary and economic cycles, commensurate with the City's investment risk constraints and the cash flow characteristics of the portfolio.

The yield shall be designed to attain an average rate of return through market cycles. Although no "benchmark" rate of return is assumed, the portfolio's yield shall be compared for reporting purposes to LAIF and the 3-month bank CD rate published by the Federal Reserve. These indices are considered benchmarks for lower risk investment transactions and therefore represent a comparable minimum standard for the portfolio's rate of return.

IV Standards of Care

1) Prudence

The City's investment portfolio is subject to public scrutiny and review and should be managed with due care and consideration. The portfolio should be created and maintained with the professionalism and care worthy of the public trust.

The standard of prudence to be applied to the Treasurer shall be the "prudent investor rule", which states, "when investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, a trustee (the governing body or Treasurer) shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person, acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency."

The Treasurer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported immediately and that appropriate action is taken to control adverse developments.

2) Ethics and Conflict of Interest

Employees of the City shall refrain from personal business activity that could conflict with the proper execution of the investment program, or which could impair their ability to make impartial investment decisions. State law, City statutes, and City personnel and purchasing practices shall be followed to avoid conflict of interest or the appearance thereof. Employees shall disclose any financial interests or personal relationships with any financial institutions, brokers or securities dealers that conduct business within its jurisdiction, and any personal financial/investment positions that could be related to their management of the portfolio. The Treasurer shall be prohibited from doing business with any broker or securities dealer with whom the City does business, with the exception of the City's primary bank for banking services. Employees shall subordinate their personal investment transactions to those of the City, particularly with regard to the time of purchases and sales.

3) Delegation of Authority

Authority to manage the City's investment program is delegated to the City Treasurer by Resolution of the City Council of the City of Laguna Hills, California. Management responsibility is hereby delegated to the Assistant City Manager/Deputy Treasurer under the direction of the City Treasurer.

The Deputy Treasurer shall establish written procedures for the operation of the investment program consistent with this investment policy, together with a system of internal controls to regulate the activities of subordinates.

V Safekeeping and Custody

1) Authorized Financial Institutions, Depositories and Brokers/Dealers

Investment transactions will be undertaken with securities dealers, brokers and depositories authorized to provide investment services. In addition, the City shall maintain a "Qualified Institution" list of approved security broker/dealers selected by creditworthiness, including the minimum capital requirement of $10 million and at least five years of operation. The City shall conduct periodic evaluations, or whenever deemed necessary, of each financial institution's standing to determine whether it should remain on the "Qualified Institution" listing. Securities dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule).

All financial institutions and brokers/dealers who desire to become qualified for investment transactions with the City must supply the following:

1) Audited financial statements demonstrating compliance with State and Federal capital adequacy guidelines. Audited financial statements will be submitted annually to the City.

2) Proof of National Association of Securities Dealers (NASD) certification, except for counterparties in Certificates of Deposits transactions.

3) Proof of State Registration

4) Completed broker/dealer questionnaire, except for Certificates of Deposits counterparties.

5) Certification of having read and understood and agreeing to comply with the City's Investment Policies, as well as to disclose potential conflicts or risks to public funds that might arise out of business transactions between the firm/depository and the City.

6) Evidence of adequate insurance coverage.

In addition, all financial institutions shall agree to undertake reasonable efforts to preclude imprudent transactions involving the City's funds. The supervising officer shall agree to exercise due diligence in monitoring the activities of other officers and subordinate staff members engaged in transactions with the City. Employees of any firm or financial institution offering securities or investments to the City shall be trained in the precautions appropriate to public-sector investment and shall be required to familiarize themselves with the City's Investment and Portfolio Policies.

2) Internal Control

Treasurer shall establish a system of written internal control policies and procedures, which shall be reviewed annually by the independent auditor. The controls shall be designed to prevent loss of public funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions.

3) Delivery vs. Payment

All trades where applicable will be executed by delivery vs. payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. A third party custodian or the trust department of the City's primary bank will hold securities. Evidence of safekeeping shall be in the form of safekeeping receipts and monthly statements reporting the securities held by the institution.

VI Authorized and Suitable Investment

1) Investment Types

Investment of City funds are restricted to the following instruments that shall mature within one year from the time of purchase unless otherwise stated:

a) U.S. Treasury bills.

b) U.S. Treasury notes or bonds.

c) Insured or fully collateralized certificates of deposit issued by a qualified Public Depository Institution of the State of California.

d) Money market mutual funds whose portfolios consist entirely of U.S. government securities and are rated at the highest letter or numerical rating from at least two of the three largest nationally recognized rating services, or which retain an Investment advisor meeting requirements specified in Government Code Section 53601(k)(2).

e) State Treasurer's Local Agency Investment Fund.

f) Overnight Government Securities (U.S. Treasuries, Agencies, and Instrumentalities) Investment Account managed by the City's primary bank.

g) Overnight Commercial Paper Investment Account managed by the City's primary bank.

h) Overnight repurchase agreements managed by the City's primary bank where the market value of the securities underlying the repurchase agreement is 102 percent or greater than the value of funds borrowed.

i) Commercial Paper rated a minimum of "P-1" by Moody's and "A-1" by Standard and Poor's, or equivalent, as provided by a nationally recognized rating agency, maturing not more that 180 days after the date of purchase. The issuer is a corporation organized and operating in the United States with assets in excess of $500 million.

j) Prime Bankers' Acceptances with a maximum term of 270 days and a rating of "P-a" by Moody's and "A-1 +" by Standard and Poor's or equivalent as provided by a nationally recognized rating agency issued within the U.S. by depository institutions.

In all instances, the City will not purchase the aforementioned instruments by the use of leveraged or margin accounts or by taking short positions in any investment instrument; i.e., selling investments the City does not own.

Investments of funds held under a trust indenture may have maturities up to two years in duration.

2) Portfolio Diversification

The City will diversify use of investment instruments to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions or maturities.

DIVERSIFICATION BY INVESTMENTS	Maximum Percent of Portfolio
U.S. Treasury Obligations (bills, notes and bonds)	50%
Certificates of Deposit (CDs) Commercial Banks	50%
Certificates of Deposit (CDs) Savings and Loan	25%
State Treasurer's Local Agency Investment Fund	85%
Overnight investment accounts managed by City's primary bank	50%
Commercial Paper	10%
Banker's Acceptances	15%
Money Market Mutual Funds	15%

DIVERSIFICATION BY INSTITUTION/ISSUER	Maximum Percent of Portfolio
Certificates of Deposit (CDs) Commercial Banks	25%
Certificates of Deposit (CDs) Savings and Loan	$250,000 maximum

3) Maximum Maturities

Investment maturities for operating funds shall be scheduled to coincide with projected cash flow needs, taking into account large routine expenditures as well as considering sizable blocks of anticipated revenue.

4) Collateralization

Collateralization will be required on repurchase agreements in order to anticipate market changes and provide a level of security for all funds.

For certificates of deposits greater than $250,000, collateral will be required at 110% of principal for government securities collateral, and 150% of principal for first mortgage collateral. Certificates of deposits for $250,000 or less, inclusive or earned interest at maturity may be invested in any FDIC insured commercial bank or savings and loan accounts.

Collateral will always be held by an independent third party, or the trust departments of the City's primary bank. A clearly marked evidence of ownership, such as safekeeping receipt and monthly statement of securities held must be provided to the City.

VII Competitive Selection of Investment Instruments

When purchasing or selling securities, the Treasurer shall select the security which provides the highest rate of return within the parameters of these policies and according to the current objectives and needs of the City's portfolio. The Treasurer, at his discretion, may purchase investments through the investment or trust department of the City's primary bank without soliciting proposal forms to other banks or broker/dealers. The City Treasurer may also purchase investments using a competitive process by soliciting proposals from the financial dealers in the "Qualified Institutions" list.

If a specific maturity date is required, either for cash flow purposes or for conformance to maturity guidelines, bids will be requested for instruments, which meet the maturity requirement. If no specific maturity is required, a market trend (yield curve) analysis will be conducted to determine which maturities would be most advantageous. Selection by comparison to a current market price may be utilized when, in the judgment of the Treasurer, competitive bidding would inhibit the selection process.

VIII Reporting

The Treasurer shall submit quarterly investment reports to the City Council that summarizes recent market conditions, economic developments and anticipated investment conditions. The report shall summarize the investment strategies employed in the most recent quarter, and describe the portfolio in terms of investment securities, maturities, risk characteristics and other pertinent features. The report shall explain the quarter's total investment return and compare the return on LAIF and the 3-month bank CD rate published by the Federal Reserve. The report shall include an appendix that discloses all transactions during the quarter.

As part of the City's annual audit, the independent auditor shall evaluate investment performance and conduct an operations audit. The purpose of these examinations shall be to obtain suggestions for improved future performance, and to verify that the Treasurer has acted in accordance with this investment policy and written investment procedures.

IX Annual Investment Policy and Adoption

The City's investment policy shall be annually reviewed and adopted by resolution of the City Council of the City of Laguna Hills, California. The policy and the related internal control procedures shall be reviewed annually by the City's independent auditors, and any modifications to the policy must be approved by the City Council.

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City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: DAVID CHANTARANGSU, AICP
DIRECTOR OF COMMUNITY DEVELOPMENT

ISSUE: ADOPTION OF AN ORDINANCE APPROVING AND ADOPTING AMENDMENTS TO TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO COMPLY WITH STATE REQUIREMENTS GENERALLY KNOWN AS "SB 2"

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO ALLOW EMERGENCY SHELTERS BY-RIGHT IN THE MIXED USE ZONE AND TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS RESIDENTIAL USES IN ALL RESIDENTIAL ZONES."

SUMMARY:

On November 27, 2012, the City Council introduced the above referenced Ordinance for first reading after reviewing a number of zoning text amendments designed to bring the City into compliance with state requirements in Senate Bill 2. Generally, these amendments revise the City's Development Code to do the following:

- Allow emergency shelters by-right in the Mixed Use zone; and
- Create the zoning mechanisms necessary that allow transitional housing and permanent supportive housing in all of the City's residential zones.

Adoption of the proposed Ordinance completes the second reading process required under State law for new Ordinances. The Ordinance would become effective 30 days after adoption (January 11, 2013). It is in order to adopt the Ordinance.

FISCAL IMPACT:

Not applicable.

CEQA FINDINGS:

On November 27, 2012, the City Council considered for adoption a Negative Declaration for the proposed zoning text amendments. A Negative Declaration indicates that environmental impacts from the adoption of the ordinance have been determined to be less than significant with no further action required.

ATTACHMENTS:

- Ordinance

ZTA-04-12-2230
Attachment #1

Proposed Ordinance

ORDINANCE NO. 2012-

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO ALLOW EMERGENCY SHELTERS BY-RIGHT IN THE MIXED USE ZONE AND TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS RESIDENTIAL USES IN ALL RESIDENTIAL ZONES.

WHEREAS, the State Legislature has declared homelessness a growing statewide problem; and

WHEREAS, the State Legislature has declared the lack or shortage of emergency shelters for homeless individuals and families to lead to the concentration of services in inner cities and poor communities; and

WHEREAS, the State Legislature has declared it the responsibility of cities and counties to plan and identify areas for emergency shelters where most appropriate in their community; and

WHEREAS, Government Code Section 65583(a)(7) requires the City's housing element to analyze special housing needs, including families and persons in need of emergency shelter; and

WHEREAS, Government Code Section 65583(a)(4)(A) requires the City's housing element to identify a zone or zones that can: (1) accommodate at least one year-round emergency shelter; and (2) allow emergency shelters as a permitted use without a conditional use permit or other discretionary permit, subject to written, objective development and management standards established by the City; and

WHEREAS, Government Code Section 65583(a)(4)(A) requires the identified zone or zones to include sufficient capacity to accommodate the need for emergency shelter as identified in the City's housing element; and

WHEREAS, the City's housing element identifies the Mixed Use zone as suitable to allow emergency shelter as a permitted use due to the number of underutilized parcels, ease of converting existing buildings to other uses, and proximity to transit and employment resources; and

WHEREAS, Implementation Program H-9 in the City's General Plan requires amendment of the City's zoning ordinance to allow emergency shelter as a permitted use in the Mixed Use zone and to allow supportive housing and transitional housing as residential uses in all residential zones; and

WHEREAS, Section 65860 of the Government Code requires that zoning ordinances be consistent with the adopted General Plan; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act, Public Resources Code Sections 21000 *et. seq.* ("CEQA"), the State's CEQA Guidelines, California Code of Regulation, Title 14, Section 15000 *et. seq.,* the City of Laguna Hills prepared an Initial Study and determined that there is no substantial evidence that the amendments would result in a significant adverse effect upon the environment and, therefore, a Negative Declaration has been prepared and notice was given in the manner required by law; and

WHEREAS, copies of the draft Negative Declaration were distributed to the City Council, and prior to taking action on the proposed amendments, the City Council reviewed and considered the information and findings contained in the Negative Declaration and determined that the document was prepared in compliance with the requirements of CEQA and local guidelines, with respect thereto; and

WHEREAS, the City properly noticed the public hearing concerning the adoption of this Ordinance pursuant to Government Code section 6061 and as required under Government Code section 65090; and

WHEREAS, the City Council of the City of Laguna Hills has considered information presented on the proposed Ordinance by City Staff, the public, and other interested parties at a Public Hearing held on November 27, 2012.

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

SECTION 1. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-04 (Definitions), Section 9-04.050 ("E" definitions), definition of "emergency shelter" is hereby amended in its entirety to read as follows:

""Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person, or as may be amended by Health and Safety Code Section 50801(e). No individual or household may be denied emergency shelter because of an inability to pay."

SECTION 2. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-04 (Definitions), Section 9-04.190 ("S" definitions), is hereby amended to add the following definition for "supportive housing" to read as follows:

""Supportive housing" means housing with no limit on length of stay that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live, and, when possible, work in the community, or as may be amended by Health and Safety Code Section 50675.14(b)."

SECTION 3. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-04 (Definitions), Section 9-04.200 ("T" definitions), is hereby amended to add the following definition for "target population" to read as follows:

""Target population" means persons, including persons with disabilities, and families who are "homeless," as that term is defined by Section 11302 of Title 42 of the United States Code, or as may be amended, or who are "homeless youth," as that term is defined by paragraph (2) of subdivision (e) of Section 11139.3 of the Government Code, or as may be amended."

SECTION 4. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-04 (Definitions), Section 9-04.200 ("T" definitions), is hereby amended to add the following definition for "transitional housing" to read as follows:

""Transitional housing" and "transitional housing development" mean buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, or as may be amended by Health and Safety Code Section 50675.2(h)."

SECTION 5. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-10 (Zoning Districts Established), Table 9-10.050 (Land Use Matrix) is hereby amended to add the following land use categories and permissible zones:

Table 9-10.050
LAND USE MATRIX

A	Accessory Use
C	Conditional Use
SUP	Special Use Permit
P	Permitted Use
S	Site Development Permit Required
T	Temporary Use
♦	Special Requirements
●	Prohibited Use
U	See Urban Village Specific Plan
L	See Laguna Hills Planned Community Development Plan and Text

Land Use / **Zones**	**Estate Residential (ER)**	**Low Density Residential (LDR)**	**Medium Low Density Residential (MLDR)**	**Medium Density Residential (MDR)**	**High Density Residential (HDR)**	**Office Professional (OP)**	**Village Commercial (VC)**	**Freeway Commercial (FC)**	**Community Commercial (CC)**	**Mixed Use (MXU)**	**Neighborhood Mixed Use (NMU)**	**Community/Private Institution (C/PI)**	**Open Space-1 (OS-1) Parks**	**Open Space-2 (OS-2) Drainage Facilities**	**Open Space-3 (OS-3) Landscape Corridors**	**Planned Community (PC)**	**Planned Community Residential (PCR)**	**Reference**
Emergency shelter	•	•	•	•	•	•	•	•	•	P	•	•	•	•	•	•	•	See Chapter 9-64
Supportive housing	♦	♦	♦	♦	♦	•	U	•	•	•	•	♦	•	•	•	L	♦	See Chapter 9-64
Transitional housing	♦	♦	♦	♦	♦	•	U	•	•	•	•	♦	•	•	•	L	♦	See Chapter 9-64

SECTION 6. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-12 (ER Estate Residential District), Table 9-12.020 (Estate Residential Uses) is hereby amended to add the following land use categories:

Table 9-12.020
ESTATE RESIDENTIAL USES

Uses	Permitted	Accessory	Reference
Supportive housing	♦		See Chapter 9-64
Transitional housing	♦		See Chapter 9-64

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

♦= Special requirements

SECTION 7. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-14 (LDR Low Density Residential District), Table 9-14.020 (Low Density Residential Uses) is hereby amended to add the following land use categories:

Table 9-14.020
LOW DENSITY RESIDENTIAL USES

Uses	Permitted	Accessory	Reference
Supportive housing	♦		See Chapter 9-64
Transitional housing	♦		See Chapter 9-64

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

♦= Special requirements

SECTION 8. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-16 (MLDR Medium Low Density Residential District), Table 9-16.020 (Medium Low Density Residential Uses) is hereby amended to add the following land use categories:

Table 9-16.020
MEDIUM LOW DENSITY RESIDENTIAL USES

Uses	Permitted	Accessory	Reference
Supportive housing	♦		See Chapter 9-64
Transitional housing	♦		See Chapter 9-64

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

♦= Special requirements

SECTION 9. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-18 (MDR Medium Density Residential District), Table 9-18.020

(Medium Density Residential Uses) is hereby amended to add the following land use categories:

Table 9-18.020
MEDIUM DENSITY RESIDENTIAL USES

Uses	Permitted	Accessory	Reference
Supportive housing	♦		See Chapter 9-64
Transitional housing	♦		See Chapter 9-64

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

♦= Special requirements

SECTION 10. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-20 (HDR High Density Residential District), Table 9-20.020 (High Density Residential Uses) is hereby amended to add the following land use categories:

Table 9-20.020
HIGH DENSITY RESIDENTIAL USES

Uses	Permitted	Accessory	Reference
Supportive housing	♦		See Chapter 9-64
Transitional housing	♦		See Chapter 9-64

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

♦= Special requirements

SECTION 11. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-21 (PCR Planned Community Residential District), Table 9-21.020 (Planned Community Residential Uses) is hereby amended to add the following land use categories:

Table 9-21.020
PLANNED COMMUNITY RESIDENTIAL USES

Uses	Permitted	Accessory	Reference
Supportive housing	♦		See Chapter 9-64
Transitional housing	♦		See Chapter 9-64

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

♦= Special requirements

SECTION 12. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-29 (NMU Neighborhood Mixed Use District), Table 9-29.020 (Neighborhood Mixed Uses) is hereby amended to add the following land use categories:

Table 9-29.020
NEIGHBORHOOD MIXED USES

Uses	Permitted	Accessory	Reference
Supportive housing	♦		See Chapter 9-64
Transitional housing	♦		See Chapter 9-64

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

♦= Special requirements

SECTION 13. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-30 (MXU Mixed Use District), Table 9-30.020 (Mixed Uses) is hereby amended to add the following land use categories:

Table 9-30.020
MIXED USES

Uses	Permitted	Accessory	Reference
Emergency shelter	P		See Chapter 9-64

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

♦= Special requirements

SECTION 14. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-32 (C/PI Community/Private Institution District), Table 9-32.020 (Community/Private Institution Uses) is hereby amended to read as follows:

Table 9-32.020
COMMUNITY/PRIVATE INSTITUTION USES

Uses	Permitted	Accessory	Reference
Supportive housing	♦		See Chapter 9-64
Transitional housing	♦		See Chapter 9-64

Note: Use is permitted subject to issuance of:

C = Conditional use permit (CUP)

S = Site development permit (SDP)

T = Temporary Use Permit (TUP)

P = Permitted

♦= Special requirements

SECTION 15. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-39 (PC Planned Community District), Section 9-39.020 (General provisions and regulations) is hereby amended to add Section 9-39.020.C to read as follows:

> "C. Community Care Facilities. Community Care Facilities are permitted in the Planned Community zone subject to the requirements outlined in Chapter 9-64 of this Development Code."

SECTION 16. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-64 (Community Care Facilities), Section 9-64.040.B.3 (Zoning Requirements and Site Development Standards) is hereby amended to read as follows:

"3. Day care centers are permitted in the village commercial, mixed use, and community/private institutional zones subject to a conditional use permit and are subject to the development standards of the zone in which the facility is located."

SECTION 17. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-64 (Community Care Facilities), Section 9-64.040 (Zoning Requirements and Site Development Standards) is hereby amended to add Section 9-64.040.C to read as follows:

"C. Supportive housing and transitional housing serving six (6) or fewer individuals are permitted in the same manner as other residential uses in the zone they are located in. Applicable residential zones include: Estate Residential; Low Density Residential; Medium Low Density Residential; Medium Density Residential; High Density Residential; Planned Community Residential; Village Commercial; Neighborhood Mixed Use; Community/Private Institution; and Planned Community."

SECTION 18. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-64 (Community Care Facilities), Section 9-64.040 (Zoning Requirements and Site Development Standards) is hereby amended to add Section 9-64.040.D to read as follows:

"D. Emergency shelters are permitted in the mixed use zoning district subject to the development standards of the zone. In accordance with the authority granted to cities under State law, emergency shelters must also meet the following objective development and management standards:

1. An emergency shelter shall be located at least 500 feet from any residential use, public or private park, public or private K-12 school, church, or other religious institution.
2. An emergency shelter shall be located at least 300 feet from other emergency shelters.
3. The cumulative total of the number of beds provided by all emergency shelters established within the Mixed Use zone shall not exceed 20.
4. The maximum stay at the emergency shelter shall not exceed one hundred and eighty (180) consecutive days.
5. Off-street parking shall be provided in the ratio of one (1) space for every three (3) beds, plus one (1) parking space for each staff member.
6. A client intake and waiting area shall be provided that is at least 200 square feet in size. A client intake and waiting area less than 200 square feet in size may be provided if it can be demonstrated that the size of the intake and waiting area is sufficient to accommodate the demand for the facility.
7. Lighting shall be provided in accordance with the standards set in §9-40.170 and §9-44.060.I of this Code.

8. An operational plan shall be provided prior to the issuance of a Certificate of Use and Occupancy for the review and approval by the Community Development Director. At minimum, the plan shall contain provisions addressing the following:

a. Security and safety. The plan shall include provision of on-site management, facility rules, and procedures for maintaining a safe environment within and outside the shelter.

b. Management of outdoor areas. The plan shall describe procedures for admittance and discharge of clients, and describe measures aimed at minimizing the congregation of clients outside the shelter when not accepting clients.

c. Staff training. The plan shall describe the staffing required for the shelter and outline required training programs that provide staff with the knowledge and skills to assist clients in obtaining permanent shelter.

d. Referral service. The plan shall include provision of a kiosk providing information on other programs available to clients for obtaining permanent shelter, mental and health counseling, job placement, educational, legal, and other supportive services."

SECTION 19. Title 9 of the City of Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-64 (Community Care Facilities), Table 9-64.040 (Required Permit For Community Care Facilities, 7+ Occupants) is hereby amended to include "supportive housing" and "transitional housing":

Table 9-64.040
REQUIRED PERMIT FOR COMMUNITY CARE FACILITIES
7+ OCCUPANTS

Land Use	Zone(s)	Permitted	Conditionally Permitted	Permits Required
Large family day care (14 children maximum)	All residential		x	Conditional use permit*
Day care center	Office professional Village commercial Mixed use Community/private institutional		x	Conditional use permit
Residential care facility for the elderly	Village commercial Mixed use		x	Conditional use permit
Drug abuse & alcoholism recovery facility (community treatment/rehabilitation	Village commercial Mixed use		x	Conditional use permit

facility)				
Dependent & neglected children homes (foster homes)	Village commercial Mixed use		x	Conditional use permit
Facilities for people with HIV or AIDs	Village commercial Mixed use		x	Conditional use permit
Homes for the mentally & physically disabled	Village commercial Mixed use		x	Conditional use permit
Facilities for wards of the juvenile court	Village commercial Mixed use		x	Conditional use permit
Social rehabilitation facility	Village commercial Mixed use Community/private institutional		x	Conditional use permit
Intermediate care facility/nursing facility	Village commercial Mixed use		x	Conditional use permit
Supportive housing	All residential		x	Conditional use permit
Transitional housing	All residential		x	Conditional use permit

SECTION 20. Section V (Land Use & Development Standards) of the Urban Village Specific Plan, Table 1 (Land Use Matrix) is hereby amended to add the following land use categories:

Table 1
Land Use Matrix

USE	PERMITTED	REFERENCE
Supportive housing	◊	See Chapter 9-64
Transitional housing	◊	See Chapter 9-64

Note:

A = Accessory Use

SUP = Special Use Permit

C = Conditional use permit (CUP)

T = Temporary Use Permit (TUP)

P = Permitted

◊ = Special requirements

SECTION 21. The City of Laguna Hills does hereby adopt the Negative Declaration for this project and determines that:

1. Pursuant to Section 15070 of the State CEQA Guidelines, this Ordinance has been reviewed through an Initial Study and a Negative Declaration has been prepared. Based on the information in the record, there is no substantial evidence that the project may have a potentially significant adverse environmental impact.

2. Pursuant to State CEQA Guidelines, it is determined that the Negative Declaration has been completed in compliance with CEQA and that this document has been presented to the City Council which has independently reviewed and considered all information contained therein prior to approving this project.

SECTION 22. Upon the effective date of this Ordinance, the provisions hereof shall supersede Title 9 “Zoning and Subdivisions” of the Municipal Code of the City of Laguna Hills, California, adopted on November 14, 1995.

SECTION 23. If any section, subsection, subdivision, sentence, clause, phrase, or 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 24. 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 11th day of December, 2012.

____
, MAYOR

ATTEST:

____
PEGGY J. JOHNS, CITY CLERK

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

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2012- was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 27th day of November, 2012, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the 11th day of December, 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss AFFIDAVIT OF POSTING
CITY OF LAGUNA HILLS) AND PUBLICATION

PEGGY J. JOHNS, 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. 2012-, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO ALLOW EMERGENCY SHELTERS BY-RIGHT IN THE MIXED USE ZONE AND TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS RESIDENTIAL USES IN ALL RESIDENTIAL ZONES.

on the 30th day of November, 2012, was published in summary in The Register and on the 21st day of December 2012, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the 28th day of November, 2012 and on the 12th day of December, 2012, caused to be posted in summary in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
Courtyard at La Paz Center

____
PEGGY J. JOHNS, CITY CLERK
Laguna Hills, California

City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: DONALD J. WHITE
ASSISTANT CITY MANAGER

ISSUE: FIRST QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY 2012/13

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AND FILE THE FIRST QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY 2012/13

SUMMARY:

Staff is submitting to the City Council the Quarterly Financial Highlights for the First Quarter of Fiscal Year 2012/13. The financial statements show the planned use of reserves for the first quarter. This is largely due to the number of revenues and expenditures that are unevenly received or expended over the course of the year. The City's total portfolio of $9,684,484 as of September 30, 2012, is invested in authorized securities.

BACKGROUND

Attached to this report is a pamphlet entitled “City of Laguna Hills Quarterly Financial Highlights, First Quarter, Fiscal Year 2012/13.” The information presented in the pamphlet provides the City Council and City management with the results of the City's financial operations for the quarter ended September 30, 2012, and its fund balance as of the same period. The pamphlet also contains a condensed Treasurer’s Investment Report, as of September 30, 2012.

The Laguna Hills Civic Center section in the pamphlet includes an abridged balance sheet and income statement summary for the Laguna Hills Center leasing operation. Essex Realty, the management company for the property, reported a net income of $13,056 for the three months of leasing activity from July 1 to September 30, 2012. After adding back contra rent revenue associated with the City’s occupied spaces, the effective net income is $162,988. The balance sheet shows equity of $16,814,244 as of September 30, 2012.

ATTACHMENTS:

- City of Laguna Hills Quarterly Financial Highlights
  1st Quarter FY 2012/13

CITY OF LAGUNA HILLS

Quarterly Financial Highlights

1st Quarter, Fiscal Year 2012-13

September 30, 2012

Honorable Mayor and City Council Members:

The following unaudited financial information summarizes the City's overall financial position for the current fiscal year through September 30, 2012.

A Summary of Funding Sources and Uses for the first quarter ended September 30, 2012 is presented in the following table:

FY 2012/13 First Quarter Highlights

	YTD Actual (million)	Budget (million)	YTD % of Budget
Funding Sources	*$ 4.0*	*$ 23.5*	*17%*
Funding Uses	*6.6*	*24.9*	*27%*
Shortfall of Sources over Uses	*($ 2.6)*	*($ 1.4)*	

Report Variances

In compliance with Government Accounting Standards Board Statement No. 22, revenues from taxpayer-assessed taxes, such as property and sales tax, received in the first two months of this fiscal year were accrued in the prior fiscal year. As such, the first quarter revenues are typically lower than the other three quarters. There are also certain expenditures, such as annual insurance premiums, that are paid in full during the first quarter (see Comparative Statement of Operations on page 3). Therefore, when comparing the budget with actual data, one cannot expect that a quarter, or 25%, of the fiscal year's revenues and expenditures would have been received or expended during the first quarter of the fiscal year. Thus, the YTD as a percentage of budget shown in this report does not necessarily indicate material deviations or budget variances.

Fund Balance

Included in this pamphlet, on page 5, is a report on the City's Fund Balance as of September 30, 2012. City-managed short-term idle funds, as well as bond funds, are invested in approved securities. An abridged balance sheet, which itemizes the City's assets and liabilities, is included on page 4.

Continued on page 2

Laguna Hills Civic Center

The abridged Balance Sheet and Income statement for the Laguna Hills Civic Center leasing operation is shown below:

Abridged Balance Sheet
As of September 30, 2012

ASSETS		
Total Current Assets	$	131,097
Total Fixed Assets		16,737,796
Total Other Assets		766
TOTAL ASSETS	**$**	**16,869,659**
LIABILITY & EQUITY		
Total Current Liabilities	$	55,415
Total Equity		16,814,244
TOTAL LIABILITIES & EQUITY	**$**	**16,869,659**

Income Statement Summary
For the 9 Months Ended September 30, 2012

TOTAL INCOME	$	133,126
TOTAL EXPENSES		120,070
NET INCOME/(LOSS)	**$**	**13,056**

Funding Sources

The City's total funding sources comprise of general fund revenues, special fund revenues, and other financing sources. At the end of the first quarter, total funding sources were approximately $4.0 million, or 17% of budget.

General Fund Revenues

General Fund Revenues are utilized primarily to finance the City's general governmental activities. At quarter end, general fund revenues totaled $888,3895, or 5% of budget. Receipts of Property Tax, which are concurrent with the County's tax collection schedule, came in at 182,511, or 2% of budget. Intergovernmental Revenues, which includes sales tax revenue, were $265,497, or 5% of budget. The recording of these revenue sources comply with GASB 23 which addresses the timing of recognition of non-exchange transactions, e.g. taxes and fines. Franchise fees from utility companies and transient occupancy tax comprise Franchise Tax revenues, which came in at 2% of budget. These receipts lag at least a quarter and no accrual was made at quarter end. Revenues from Licenses & Permits, $141,084, and Charges for Services, $206,098, are dependent upon development activities and came in at 16% and 18% of budget respectively. Fines and Forfeitures, which includes parking and vehicle fines, ended the quarter at 8% of budget, or $42,269.

Special Revenues and Grants

Many of the Special Revenue funding sources are tied in with the City's Capital Improvement Plan. The receipts of funding sources for certain capital projects typically lag behind the spending on the projects, as the claims are applied for during construction or after project-completion. At the end of the first quarter, special revenues receipts totaled $188,277, or 5% of budget.

Other Funding Sources

In accordance with GAAP, not all increases in governmental fund financial resources can be classified as revenue. Certain increases instead are reported as other financing sources, such as sales of general capital assets, proceeds of general long-term debt, and financial inflows from other funds. On September 13, 2012, the sale of the Moulton-La Paz property to Vintage Real Estate closed escrow for $2,952,352.

Funding Uses

The City's total funding uses consist of the City's Operating Expenditures, outlay for Capital Improvement projects, debt charges and expenditures for grant related programs. At the end of the first quarter, total funding uses were approximately $6.6 million, which was 27% of the annual budget.

Operating Expenditures

At the end of the first quarter, operating expenditures totaled roughly $3.8 million, which represents 22% of the total operating budget. The spending levels for all the functional areas were at or below 25%, with the exception of Administrative Services and Information Technology, as payments for certain expenditures, such as annual insurance premiums and annual software maintenance, are paid in full at the beginning of the fiscal year.

Capital Improvement Plan

All budgeted capital improvement projects automatically re-appropriate each fiscal year until the project is completed. The amended budget of approximately $5.2 million includes roughly $2.3 million in budget carry-overs from the re-appropriation of capital improvement projects, namely the La Paz Widening at I-5 project (of $1.3 million). At the end of the first quarter, total capital expenditures were $2,496,192, or 48% of budget.

The following table lists the City's capital projects by major expenditure categories as of the end of

Capital Improvement Program For the 3 Months Ended, September 30, 2012		
Streets, Signals & Lighting	$	2,307,573
Streetscape		8,231
Flood Control & Water Quality		7,671
Parks		171,754
Public Facilities		963
Total	**$**	**2,496,192**

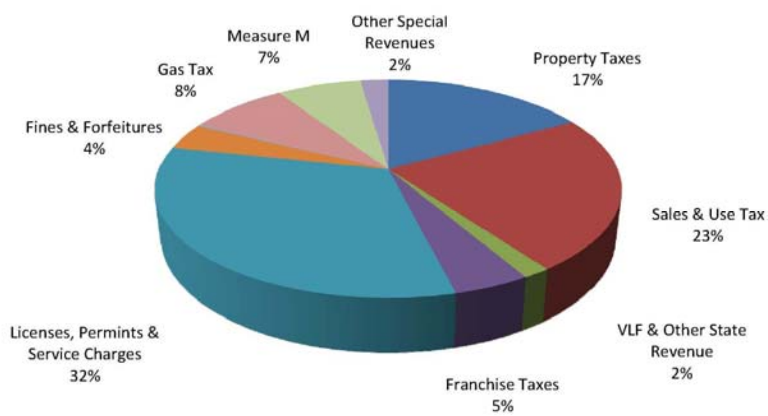
CITY OF LAGUNA HILLS
Comparative Statement of Operation - Governmental Funds
For the 3 Months Ended, September 30, 2012

	FY 2012/13			FY 2011/12		
	Y-T-D ACTUAL	AMENDED BUDGET	YTD % of BUDGET	Y-T-D ACTUAL	AMENDED BUDGET	YTD % of BUDGET
FUNDING SOURCES						
General Fund Revenues						
Property Taxes	$ 182,511	$ 8,680,357	2%	$ 207,757	$ 8,443,720	2%
Intergovernmental Revenues	265,497	5,738,434	5%	334,842	5,615,936	6%
Franchise Taxes	48,567	2,422,641	2%	87,121	2,244,170	4%
Licenses and Permits	141,084	910,000	16%	154,694	805,600	19%
Charges for Current Services	206,098	1,125,413	18%	214,089	1,117,613	19%
Fines & Forfeitures	42,269	500,000	8%	61,100	500,000	12%
Interest Income	2,364	68,000	3%	3,112	32,000	10%
Total General Fund Revenues	888,389	19,444,845	5%	1,062,715	18,759,039	6%
Special Revenue Funds						
Gas Tax Fund	88,232	932,707	9%	137,653	912,629	15%
Measure M2 Fair Share	75,437	497,908	15%	67,312	468,290	14%
Measure M - Competitive	-	245,709	0%	-	165,709	0%
AB 2766 Fund	-	40,000	0%	-	40,000	0%
CDBG	-	215,000	0%	-	228,750	0%
Redevelopment Tax Increment	-	71,400	0%	62,302	70,000	89%
Housing Set-aside	-	22,850	0%		22,400	0%
Beverage Recycling Fund	-	8,826	0%	-	8,826	0%
CR&R Recycling Fees	20,000	20,000	100%	20,000	20,000	100%
C&D Forfeited Deposits	-	50,000	0%	-	50,000	0%
Senior Mobility Program	4,609	34,226	13%	5,918	34,226	17%
Grants and Contributions	-	1,630,966	0%	-	4,990,000	0%
Investment Income	5,162	102,000	5%	4,669	48,000	10%
Total Special Revenue Funding	193,439	3,871,593	5%	501,390	7,058,830	7%
Other Funding Sources						
Sale of capital assets	2,952,352	-		-	-	
Distributions from Business-type Fund	-	150,000	0%	-	100,000	0%
Total Other Funding Sources	2,952,352	150,000	1968%	-	100,000	0%
TOTAL FUNDING SOURCES	$ 4,034,180	$ 23,466,438	17%	$ 1,564,105	$ 25,917,869	6%
FUNDING USES						
Operating Expenditures						
City Council/Manager	$ 245,515	1,078,024	23%	$ 226,943	$ 1,056,981	21%
City Clerk	82,029	388,623	21%	88,517	378,693	23%
Administrative Services	375,580	1,365,503	28%	375,808	1,310,565	29%
Information Technology	66,735	254,832	26%	67,261	287,970	23%
Community Development	226,821	1,370,580	17%	255,938	1,360,257	19%
Public Services	719,171	4,172,557	17%	799,391	4,018,945	20%
Community Services	437,079	1,844,180	24%	418,267	1,750,495	24%
Public Safety	1,667,315	6,893,205	24%	1,647,644	6,759,246	24%
Total Operating Expenditures	3,820,245	17,367,504	22%	3,879,769	16,923,152	23%
Capital Improvement Program	2,496,192	5,187,609	48%	611,886	7,438,785	8%
Other Funding Uses						
Debt Charges	311,594	1,803,187	17%	334,194	1,798,387	19%
Claims	7,916	50,000	16%	2,889	50,000	6%
Distributions to Business-type Fund	-	101,237	0%	-	-	
Special Revenue Fund Expenditures						
Redevelopment Tax Increment Fund	-	20,000	0%	2,608	47,515	5%
Housing Set-Aside	-	22,850	0%		22,400	0%
CDBG Fund Expenditures	-	215,000	0%	-	228,750	0%
Senior Mobility Program	440	34,226	1%	850	63,721	1%
Beverage Recyling	592	19,500	3%	-	34,000	0%
CR&R Recyling Fund	5,449	20,000	27%	7,540	13,019	58%
Forfeited C&D Deposits	-	54,731	0%	-	58,981	0%
AB 939 Surcharge Grant	1,201	2,669	45%	1,146	7,468	15%
Law Enforcement Fund Expenditures	2,312	-		6,073	-	
Total Other Funding Uses	329,504	2,343,400	14%	371,715	2,324,241	16%
TOTAL FUNDING USES	$ 6,645,942	$ 24,898,513	27%	$ 4,863,370	$ 26,686,178	18%
NET CHANGE IN FUND BALANCE	$ (2,611,762)	$ (1,432,075)		$ (3,299,265)	$ (768,309)	

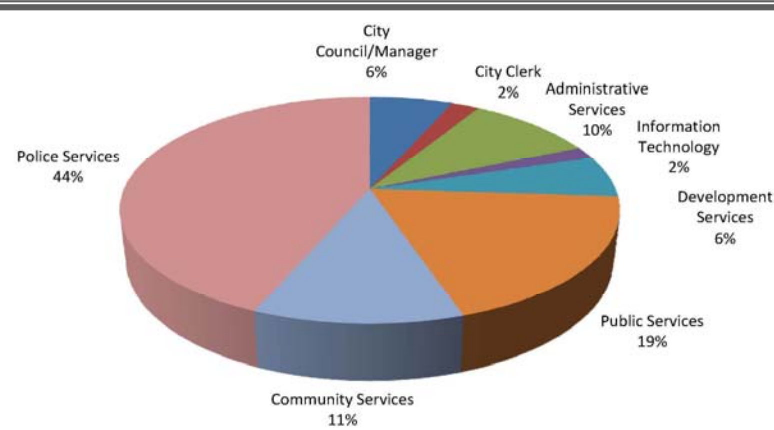
CITY OF LAGUNA HILLS
Abridged Balance Sheet - Governmental Funds
September 30, 2012

Assets		
Cash and investments	$	9,684,484
Receivables:		
Accounts		179,363
Interest		8,103
Due from other funds		28,613
Due from other governments		2,463,916
Total assets	**$**	**12,364,479**
Liabilities and Fund Balances		
Liabilities:		
Accounts payable	$	3,235,745
Payroll and benefits		19,407
Refundable deposits to contractors		372,313
Deferred revenue		911,906
Trust accounts		13,489
Total liabilities	$	4,552,859
Fund balances:	$	7,811,620
Total liabilities and fund balances	**$**	**12,364,479**

REVENUES
1st Quarter FY 12/13



OPERATING EXPENDITURES
1st Quarter FY 12/13



CITY OF LAGUNA HILLS
Statement of Working Funds
As of September 30, 2012

Fund Balance	**As of July 1, 2012**		
General Fund		$	6,745,572
Gas Tax			949,019
Measure M			5,709
Proposition 1B			175,544
CARITS			875,124
Senior Mobility Program			21,324
Beverage Recycling			38,153
CR&R Recycling			5
C&D Forfeited Deposits			25,578
AB 939 Surcharge Grant			7,607
Public Art Fund			(238,737)
Grants & Contributions			8,856
Debt Service			1,809,627
Total			10,423,381
Excess (Deficiency) of Funding Sources over Funding Uses			(2,611,762)
Fund Balance	**As of September 30, 2012**	$	**7,811,620**
Disposition of Working Funds	**As of September 30, 2012**		
Total Cash per General Ledger		$	1,218,982
Investments (Details of Portfolio are in Treasurer's Report)			8,465,502
Total Cash and Investments			9,684,484
Receivables Net of Liabilities			(1,872,864)
Working Funds	**As of September 30, 2012**	$	**7,811,620**

The Financial Management Report for the 1st Quarter of Fiscal Year 2012-13 is hereby submitted. The accounts of the City are organized on the basis of funds, each of which is considered a separate accounting entity. To the best of our knowledge and belief, the above information are reported in a manner that presents fairly the financial position and results of operation of the governmental funds of the City of Laguna Hills.

Respectfully submitted,

original signed
Donald J. White
Assistant City Manager

December 6, 2012
Date

Treasurer's Investment Report (Condensed)
For the First Quarter Ended September 30, 2012

Cash and Investments by Type	Beginning Book Value	Deposits	Withdrawals	Ending Book Value	1st Qtr Interest Income
State Treasurer's Investment Fund	$ 6,029,841	$ 2,005,077	$ 2,200,000	$ 5,834,918	$ 4,461
Public Funds Certificates of Deposits	750,000	-	-	750,000	551
Multiple Maturity Certificates of Deposits	70,957	-	-	70,957	898
Funds Under Trust Indenture	1,808,021	1,606	-	1,809,627	1,616
Deposits in Escrow	-	144,917	-	144,917	-
Demand Deposits	483,102	7,956,688	7,533,496	906,294	-
Demand Deposits with Fiscal Agent	13,806	197,550	42,724	167,771	-
TOTAL	**$ 9,155,726**	**$ 10,305,839**	**$ 9,776,220**	**$ 9,684,484**	**$ 7,526**

Current Portfolio Summary

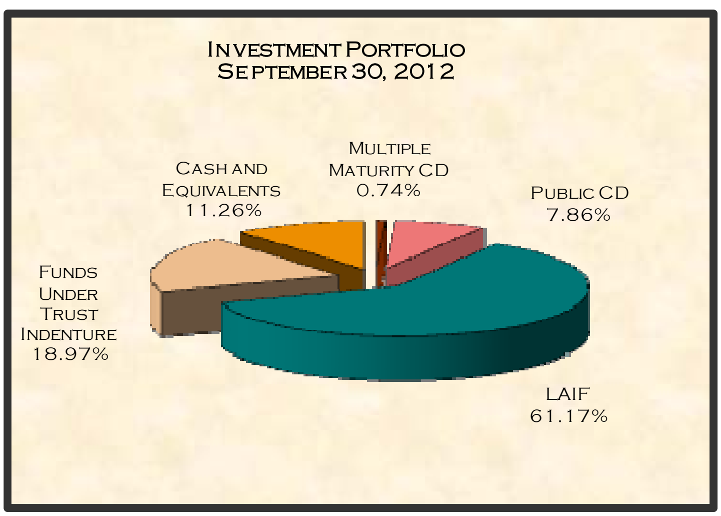
Short-term excess cash is currently invested primarily in the Local Agency Investment Fund (LAIF) administered by the State Treasurer. Held under trust indenture by The Bank of New York Mellon Trust Company, N.A, is a Reserve Fund established to secure the timely payment of principal and interest represented by the 2010 Refinancing Project bond issues. The City's investment policy approved by Council resolution is the prevailing guideline in managing investments.

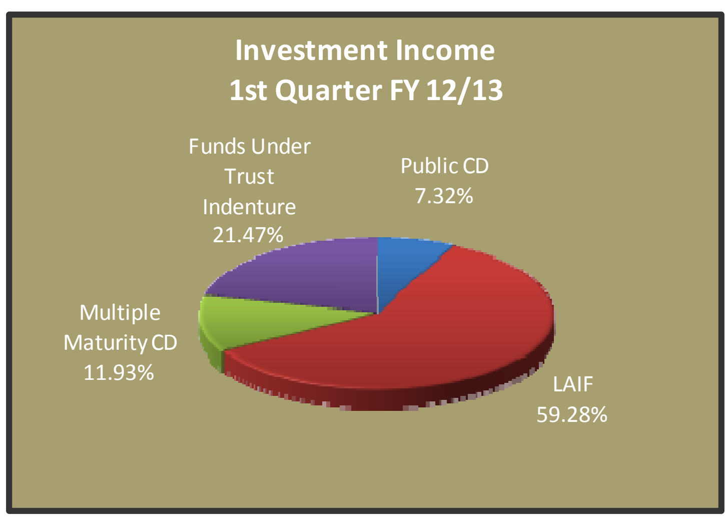
Cash and Investments

The following is the summary of the cash and investments of the City-managed funds for the 1st quarter ended September 30, 2012, compared with the same period of the previous fiscal year:

	September 30, 2012	September 30, 2011
Cash	$1,218,982	$2,405,475
Investments	6,655,875	4,137,900
Cash & Investments - City Managed Funds	7,874,857	6,543,376
Restricted Cash and Investments	1,809,627	1,807,294
Total Cash & Investments - All Funds	$9,684,484	$8,350,670

We believe the City's portfolio provides sufficient cash flow liquidity to meet the next six months of the City's projected operating expenditures.





Richard Fisher, Architect from Richard Fisher Associates, spoke on the initiation of the public process and design services for the La Paz Open Space Project, CIP No. 615A and answered questions from the City Council.

A SUBSTITUTE MOTION WAS MADE TO APPROVE THE ITEM AND LET THE DESIGN PROCESS MOVE FORWARD, BY M/COUNCIL MEMBER SONGSTAD, S/COUNCIL MEMBER KOGERMAN.
MOTION FAILED BY A VOTE OF 2-2-1 (COUNCIL MEMBER BRESSETTE AND MAYOR CARRUTH VOTING NO, MAYOR PRO TEMPORE LAUTENSCHLEGER ABSENT).

THE CITY COUNCIL APPROVED THE PROFESSIONAL SERVICES AGREEMENT WITH RICHARD FISHER ASSOCIATES FOR LANDSCAPE ARCHITECTURE DESIGN SERVICES FOR THE LA PAZ OPEN SPACE PROJECT, CIP NO. 615A, SUBJECT TO REVISING THE SCOPE OF WORK TO INCLUDE AT TASK 8-A, TO RETURN TO THE CITY COUNCIL WITH A PRESENTATION OF THE CONCEPT PLANS, BY M/COUNCIL MEMBER SONGSTAD, S/COUNCIL MEMBER KOGERMAN.
APPROVED BY A VOTE OF 4-0-1 (MAYOR PRO TEMPORE LAUTENSCHLEGER ABSENT).

Mayor Pro Tempore Lautenschleger returned to the meeting.

5. 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 8:32 PM.

5.1 ROLL CALL OF PLANNING AGENCY MEMBERS

Present: Chair Carruth, Vice Chair Lautenschleger, Agency Member Bressette, Agency Member Kogerman, and Agency Member Songstad

5.2 PUBLIC COMMENTS

There were no Public Comments.

5.3 MINUTES

5.3.1 REGULAR MEETING, NOVEMBER 13, 2012

MOTION TO APPROVE THE MINUTES OF THE NOVEMBER 13, 2012, REGULAR MEETING, BY M/AGENCY MEMBER SONGSTAD, S/VICE CHAIR LAUTENSCHLEGER.
APPROVED BY A VOTE OF 5-0.

5.4 PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency Public Hearings.

PLANNING AGENCY ADJOURNMENT

Mayor Carruth reconvened the City Council meeting at 8:33 PM. All Council Members were present.

6. CITY COUNCIL PUBLIC HEARINGS

6.1 ZONING TEXT AMENDMENT NO. 04-12-2230, AN AMENDMENT TO TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO ALLOW EMERGENCY SHELTERS BY-RIGHT IN THE MIXED USE ZONE AND TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS RESIDENTIAL USES IN ALL RESIDENTIAL ZONES IN ORDER TO COMPLY WITH STATE REQUIREMENTS GENERALLY KNOWN AS "SB 2."

Mayor Carruth opened the Public Hearing upon seeing no one rise, closed the Public Hearing.

THE CITY COUNCIL INTRODUCED FOR FIRST READING, READ BY TITLE ONLY, AND WAIVED FURTHER READING OF, AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING TITLE 9 OF THE LAGUNA HILLS MUNICIPAL CODE (ZONING AND SUBDIVISIONS) TO ALLOW EMERGENCY SHELTERS BY-RIGHT IN THE MIXED USE ZONE AND TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS RESIDENTIAL USES IN ALL RESIDENTIAL ZONES IN ORDER TO COMPLY WITH STATE REQUIREMENTS GENERALLY KNOWN AS "SB 2," BY M/MAYOR CARRUTH, S/MAYOR PRO TEMPORE LAUTENSCHLEGER.
APPROVED BY A VOTE OF 4-1, (COUNCIL MEMBER SONGSTAD VOTING NO.)

7. ADMINISTRATIVE REPORTS

7.1 City Manager

7.1.1 2012 CITY MANAGER'S YEAR END REPORT

THE CITY COUNCIL RECEIVED AND FILED THE 2012 CITY MANAGER'S YEAR END REPORT, BY M/COUNCIL MEMBER BRESSETTE, S/COUNCIL MEMBER SONGSTAD.
APPROVED BY A VOTE OF 5-0.

7.2 Assistant City Manager

7.2.1 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAGUNA HILLS AND THE LAGUNA HILLS CITY EMPLOYEES ASSOCIATION

City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: PEGGY J. JOHNS
CITY CLERK

ISSUE: 2013 CITY COUNCIL MEETING SCHEDULE

RECOMMENDATION: THAT THE CITY COUNCIL SELECT A DATE FOR COMMISSION INTERVIEWS AND ADOPT THE PROPOSED CALENDAR FOR 2013.

SUMMARY:

In order to facilitate preparation and delivery of agendas and provide adequate time for City Council Members and staff to plan schedules, it is helpful to review the meeting schedule for the upcoming calendar year. Attached is the proposed Calendar for 2013. The City Council, with proper noticing, can decide to adjourn a regular meeting to a specific date and time prior to its next meeting or call a special meeting if the need for a meeting arises.

BACKGROUND:

In reviewing the Calendar for 2013, please take note of the following:

- The second meeting in July, first meeting in August, and second meeting in December are dark.
- Saddleback Unified School District February recess is February is 15-17, 2013, and Spring recess is April 1-5, 2013.
- The FY 2013-2015 budget meetings are included in the calendar.

It is also requested that the City Council select a date in January for an adjourned Regular Meeting for the purpose of conducting Commission interviews.

ATTACHMENTS:

- Proposed Calendar for 2013

CALENDAR FOR 2013

January 1, 2013	**New Year's Day Holiday Observed** **City Hall Closed**
January 8, 2013	Regular City Council/Planning Agency Meeting
January 15, 2013	Adjourned Regular Meeting Commission Interviews
January 21, 2013	Observed Martin Luther King's Birthday
January 22, 2013	Regular City Council/Planning Agency Meeting
February 12, 2013	Regular City Council/Planning Agency Meeting Public Improvement Corp
February 18, 2013	**Presidents Day Holiday** **City Hall Closed**
February 26, 2013	Regular City Council/Planning Agency Meeting
March 12, 2013	Regular City Council/Planning Agency Meeting
March 16, 2013	Adjourned Regular Meeting City Council Workshop
March 26, 2013	Regular City Council/Planning Agency Meeting
March 31, 2013	Easter Sunday
April 2, 2013	Adjourned Regular Meeting Strategic Planning Study Session
April 9, 2013	Regular City Council/Planning Agency Meeting
April 16, 2013	Adjourned Regular Meeting CIP Study Session
April 23, 2013	Regular City Council/Planning Agency Meeting

Calendar for 2013

May 7, 2013	Adjourned Regular Meeting Operating Budget Study Session
May 14, 2013	Regular City Council/Planning Agency Meeting
May 27, 2013	**Memorial Day Holiday** **City Hall Closed**
May 28, 2013	Regular City Council/Planning Agency Meeting
June 11, 2013	Regular City Council/Planning Agency Meeting
June 25, 2013	Regular City Council/Planning Agency Meeting
July 4, 2013	City's Fourth of July Celebration **City Hall Closed**
July 9, 2013	Regular City Council/Planning Agency Meeting
July 23, 2013	**Regular City Council/Planning Agency Meeting** **Dark Meeting**
August 13, 2013	**Regular City Council/Planning Agency Meeting** **Dark Meeting**
August 27, 2013	Regular City Council/Planning Agency Meeting
September 2, 2013	**Labor Day Holiday** **City Hall Closed**
September 10, 2013	Regular City Council/Planning Agency Meeting
September 18-20, 2013	League of California Cities Annual Conference Sacramento, California
September 24, 2013	Regular City Council/Planning Agency Meeting

Calendar for 2013

October 8, 2013	Regular City Council/Planning Agency Meeting
October 22, 2013	Regular City Council/Planning Agency Meeting
November 11, 2013	**Veteran's Day Holiday** City Hall Closed
November 12, 2013	Regular City Council/Planning Agency Meeting
November 26, 2013	Regular City Council/Planning Agency Meeting
November 28-29, 2013	**Thanksgiving Holiday** **City Hall Closed**
December 10, 2013	Regular City Council/Planning Agency Meeting
December 24, 2013	**Regular City Council/Planning Agency Meeting** **Dark Meeting**
December 25, 2013	**Observed Christmas Holiday** **City Hall closed**

2013 City Council Calendar

City Council Meeting — Observed Holiday City Hall Closed — Adjourned Regular Meeting

January 13

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

January 1 – New Year's Day (City Hall Closed)

January 8 – City Council Meeting

January 15 – Adjourned Regular Meeting
Commission Interviews

January 22 – City Council Meeting

February 13

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

February 12 – City Council Meeting

February 18 – President's Day Holiday (City Hall Closed)

February 26 – City Council Meeting

March 13

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

March 12 – City Council Meeting

March 16 – Adjourned Regular Meeting
City Council Workshop

March 26 – City Council Meeting

April 13

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

April 2 – Adjourned Regular Meeting
Strategic Planning Study Session

April 9 – City Council Meeting

April 16 – Adjourned Regular Meeting
CIP Study Session

April 23 – City Council Meeting

2013 City Council Calendar

City Council Meeting (square box) | Observed Holiday City Hall Closed (yellow box) | Adjourned Regular Meeting (oval)

May 13

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

May 7 – Adjourned Regular Meeting
Operating Budget Study Session

May 14 – City Council Meeting

May 27 – Memorial Day (City Hall Closed)

May 28 – City Council Meeting

June 13

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

June 11 – City Council Meeting

June 25 – City Council Meeting

July 13

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

July 4 – Fourth of July Celebration (City Hall Closed)

July 9 – City Council Meeting

July 23 – **City Council Meeting Dark**

August 13

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

August 13 – **City Council Meeting Dark**

August 27 – City Council Meeting

2013 City Council Calendar

City Council Meeting | Observed Holiday City Hall Closed | Adjourned Regular Meeting

September 13

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

September 2 – Labor Day (City Hall Closed)

September 10 – City Council Meeting

September 18-20 – League of California Cities Annual Conference

September 24 – City Council Meeting

October 13

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

October 8 – City Council Meeting

October 22 – City Council Meeting

November 13

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

November 11 – Veteran's Day (City Hall Closed)

November 12 – City Council Meeting

November 26 – City Council Meeting

November 28-29 – Thanksgiving Holiday (City Hall Closed)

December 13

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

December 10 – City Council Meeting

December 24 – **City Council Meeting Dark**

December 25 – Christmas Day (City Hall Closed)

City of Laguna Hills
City Council Meeting Agenda
Staff Report

DATE: DECEMBER 11, 2012

TO: MAYOR AND COUNCIL MEMBERS

FROM: PEGGY J. JOHNS
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 ON THE LIST, AND BY MOTION, APPROVE THE CITY COUNCIL "OTHER AGENCIES" APPOINTED REPRESENTATIVES LIST, AS REVISED BY THE COUNCIL;

(2) ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DESIGNATING AND APPOINTING ITS REPRESENTATIVE AND ALTERNATE TO THE ORANGE COUNTY FIRE AUTHORITY'S BOARD OF DIRECTORS";

(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 during the December City Council meeting, the City Council reviews the “Other Agencies” list of Commissions, Boards, Committees, etc., to which it appoints individuals to represent the City during the forthcoming year. This year, with the departure of Council Member Lautenschleger and Council Member Songstad, there is a need to appoint representatives to fill positions vacated by these individuals; however, Council Member Lautenschleger has indicated his willingness to continue to serve on the Orange County Vector Control District to fulfill his term which ends December 31, 2013, if so

desired by the new Council. The City Council may also choose to make any other changes to the list of "Other Agencies" Appointed Representatives List.

Per the Orange County Fire Authority's Joint Powers Agreement, appointment of the Director and Alternate Director to the Fire Authority's Board of Directors are to be formalized by a Resolution, which approval will require a recorded majority vote of the total membership of the City Council. Attached for your consideration is the Resolution which will formalize the City Council's appointment to the Orange County Fire Authority's Board of Directors.

The Fair Political Practices Commission has mandated that Form 806 now 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 appointed positions. When there is a change in compensation or a new appointment, the Form 806 must be updated to reflect the change. Form 806 must be updated promptly as changes occur. Attached to this report is a copy of the currently posted Form 806, along with instructions for completion, and a Frequently Asked Questions sheet.

ATTACHMENTS:

- "Other Agencies" Appointed Representatives List
- OCFA Resolution
- Current Form 806
- Form 806 Instructions and Frequently Asked Questions Sheet

CITY OF LAGUNA HILLS
CITY REPRESENTATIVES

NAME OF AGENCY/COMMITTEE	REPRESENTATIVES	DATE APPOINTED
Association of California Cities - OC	Delegate: Mayor	
	Alternate: Mayor Pro Tempore	
Audit Committee	Channing	03/14/1995
	Bressette	03/14/1995
	Kogerman	12/14/2010
Civic Center Management Committee	Kogerman	12/14/2010
	Songstad	12/13/2005
	Channing	12/13/2005
	White	12/13/2005
Coastal Greenbelt Authority	Representative: Carruth	12/10/2002
Laguna Canyon Foundation Advisory Council	Representative: Carruth	12/10/2002
League of California Cities Voting Delegate to Annual Conference	Delegate: Current Mayor	12/10/2002
	Alternate: Current Mayor Pro Tempore	12/10/2002
Operational Area Council (Emergency)	Representative: Current Mayor	12/10/1996
	Alternate: Current Mayor Pro Tempore	12/14/1999
Orange County Council of Governments (OCCOG)	Delegate: Lautenschleger	12/14/2010
	Alternate: Kogerman	12/14/2010
Orange County Fire Authority	Director : Bressette	12/13/2011
	Alternate Director: Kogerman	12/13/2011
OC Public Libraries Library Advisory Board	Representative: Kogerman	12/14/2010
	Alternate: Lautenschleger	02/11/1997

List of City Representatives

NAME OF AGENCY/COMMITTEE	REPRESENTATIVES	DATE APPOINTED
Orange County Vector Control District	Trustee Member: Lautenschleger	12/13/2011
South Orange County Watershed Management Area Executive Committee	Member: Carruth Alternate: Mayor	02/22/2011
Southern California Association of Governments (SCAG)	Delegate: Lautenschleger Alternate: Kogerman	12/14/2010 12/14/2010
Transportation Corridor Agency -San Joaquin Hills Transportation Corridor Agency	Director: Carruth Alternate Director: Lautenschleger	12/13/2011 12/13/2011

December 11, 2012
0410-30\CtyClerk\Agendas\Lst City Representatives.doc

RESOLUTION NO. 2012-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DESIGNATING AND APPOINTING ITS REPRESENTATIVE AND ALTERNATE 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") and alternate 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 member agency shall also appoint an alternate representative to act in each Director's absence; and

WHEREAS, each alternate shall be a current elected member of the member agency's governing body, and

WHEREAS, each Director and alterate 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 filed in the same manner as the original appointment of a Director and/or alternate.

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 Director to the Orange County Fire Authority Board of Directors.

SECTION 2. Designate and appoint ________________________ as alternate to the Orange County Fire Authority Board of Directors.

SECTION 3. That the City Clerk shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 11th day of December 2012.

____
, MAYOR

ATTEST:

____
PEGGY J. JOHNS, CITY CLERK

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

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. _________________ adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 11th day of December 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
PEGGY J. JOHNS, 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)*

Peggy J. Johns, City Clerk

Area Code/Phone Number	E-mail
949-707-2635	pjohns@ci.laguna-hills.ca.us

Page 1 of 1

Date Posted: June 12, 2012 *(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: Bressette, Randal (Last, First) Alternate, if any: Kogerman, Barbara (Last, First)	12 / 13 / 12 (Appt Date) undefined (Length of Term)	Per Meeting: $ 100. Estimated Annual: ☒ $0-$1,000 ☐ $2,001-$3,000 ☐ $1,001-$2,000 ☐ ____ Other
Orange County Vector Control District	Name: Lautenschleger, Joel (Last, First) Alternate, if any: None (Last, First)	12 / 13 / 12 (Appt Date) 4 years (Length of Term)	Per Meeting: $ 120. 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: Lautenschleger, Joel (Last, First) Alternate, if any: Kogerman, Barbara (Last, First)	12 / 13 / 12 (Appt Date) 2 years (Length of Term)	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: Carruth, Melody (Last, First) Alternate, if any: Lautenschleger, Joel (Last, First)	12 / 13 / 12 (Appt Date) 1 year (Length of Term)	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 Channing	City Manager	06/11/2012

Comment:

12/11/2012 ITEM NO. 7.2.2

Agency Report of:
Public Official Appointments

California Form **806**

A Public Document

Background

This form is 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. For example, a city councilmember may be appointed to serve as the city's representative on a joint powers insurance authority or a metropolitan planning organization or mayor. (Regulation 18705.5, amended 03.2012)

Each agency must post on its website a single Form 806 which lists all the paid appointed positions. When there is a change in compensation or a new appointment, the Form 806 is updated to reflect the change. The form must be updated promptly as changes occur.

Initial Agency Posting

As soon as possible, each agency should prepare a Form 806 identifying all of the current paid appointments to other governmental agencies. Thereafter, the form may be amended to include the future appointments.

Instructions

This form must be posted prior to a vote (or consent item) to appoint a governing board member to a paid position on another agency.

Part 1. Agency Identification
Identify the agency name and information on who should be contacted for information.

Part 2. Appointments
Identify the name of the other agency, board or commission. List the name of the official, and an alternate, if any.

List the appointment date and the length of term the agency official will serve. Disclose the stipend provided per meeting and the estimated annual payment. The annual salary is an estimate as it will likely vary depending on the number of meetings. It is not necessary to revise the estimate at the end of the calendar year.

Part 3. Verification
The agency head or his/her designee must sign the verification.

Frequently Asked Questions (FAQs)

1. When does an agency need to complete the Form 806?

   A Form 806 is required when an agency's board members vote on an appointment for a board member to serve on another governmental agency and pay is provided.

2. The city council votes to serve as the city's housing authority, a separate entity. Will the Form 806 be required?

   If the council members receive an additional compensation for serving on the housing authority, the Form 806 is required. If there is no payment, the Form 806 is not required.

3. Are appointments made by a governing board to appoint one of its members to serve as an officer of that board for additional pay (e.g. mayor) required to be disclosed on Form 806?

   Yes. Regulation 18705.5 permits voting on your own appointment to position of mayor as well as other boards and commissions so long as proper disclosure on the Form 806 is made. This exception and disclosure apply to agencies with governing boards that are elected or appointed.

4. In determining the salary, must the agency include mileage reimbursements, travel payments, health benefits, and other compensation?

   No. The FPPC regulation only requires the reporting of the stipend or salary.

5. Which agency must post the Form 806?

   The agency that is voting to appoint a public official must post the Form 806 on its website. The agency that the official will serve as a member is not required to post the Form 806. The form is not sent to the FPPC.

6. When must the Form 806 be amended?

   The Form 806 should be amended promptly upon any of the following circumstances: (1) the number of scheduled meetings is changed, (2) there is a change in the compensation paid to the members, or (3) there is a change in membership on the board or commission.

7. When a body meets irregularly, how should the annual compensation be estimated?

   The agency should estimate compensation using the highest number of meetings.

8. In 2013 our agency will have a new appointment to a new agency. How is the Form 806 updated?

   Before the agency votes on the appointment, the agency should update the Form 806 and identify the other governmental entity's name. If known, also include other information such as the number of meetings and stipend. As long as that information is posted prior to a vote of the governing board on an appointment, the agency is in compliance with Regulation 18705.5. Following the vote, the agency must update the form to identify the individual that will serve.

Privacy Information Notice
Information requested by the FPPC is used to administer and enforce the Political Reform Act. Failure to provide information may be a violation subject to penalties. All reports are public records available for inspection and reproduction. Direct questions to FPPC's General Counsel. Fair Political Practices Commission, 428 J Street, Ste. 620, Sacramento, CA 95814.

California Fair Political Practices Commission
Form 806 – Agency Report of Public Official Appointments Frequently Asked Questions

This fact sheet provides additional guidance and examples on how to report public official appointments. The Form 806 is used to report additional compensation that officials receive when appointing themselves to positions on committees, boards or commissions of a public agency, special district, or joint powers agency or authority. (FPPC Regulation 18705.5.)

This fact sheet cannot address all the different types of situations that may occur when officials receive additional compensation for appointing themselves to positions. Persons are encouraged to use the FPPC advice service for specific guidance.

The following FAQs address some common activities.

Frequently Asked Questions

1. Q. May an official recuse himself and leave the room while the other members of the council vote to appoint him to another agency position for which the official will receive a $300 a year stipend? If so, does a Form 806 need to be posted?

   A. Yes, an official may recuse himself and leave the room. If so, the Form 806 is not required. The Form 806 is only required if the official actually wants to participate in the vote for his appointment.

2. Q. May officials vote to appoint themselves to either an ad hoc committee or a non-governmental entity, such as League of California Cities or California State Association of Counties, if the stipend is at least $250 in a 12-month period?

   A. No. The official may not vote and must recuse himself/herself and leave the room. The provisions of FPPC Regulation 18705.5 may be applied only to appointments that are (1) required by state or local law (presumably appointment to an ad hoc committee would not be so required) and (2) to other committees, boards, or commissions of public agencies (which would not include a nongovernmental agency).

3. Q. May officials vote to appoint themselves to serve on another governmental entity if the stipend is waived or results in less than $250 in a 12-month period?

   A. Yes. A Form 806 is not required to be posted. The Form 806 must be posted if the stipend would be at least $250 in a 12-month period.

4. Q. At a city council meeting, city council members vote to appoint a member to the Transportation Commission. The Transportation Commission pays the officials' stipend. Which agency completes the Form 806?

A. The agency that conducts the vote must complete the Form 806. In the example above, the city posts the Form 806 even though the officials are paid by the Transportation Commission.

5. Q. A member of the County Board of Supervisors is appointed to a water district board of directors. The water district board will make an appointment to place a water district board member on the board of an irrigation district. As a board member of the irrigation district, the official will receive a stipend of at least $250 in a 12-month period. Which agency completes the Form 806?

   A. The agency that conducts the vote must complete the Form 806. In the example above, the water district must complete the Form 806.

Statutory and Regulatory Authority

Government Code Sections: 87100, 87102.5, 87102.6, 87102.8, 87103
Regulations: 18705.5