



CITY OF LAGUNA HILLS CITY COUNCIL/PLANNING AGENCY

REGULAR MEETING AGENDA Tuesday, October 8, 2019 – 7:00 PM (Closed Session at 6:00 PM when scheduled)

Don Sedgwick, Mayor

**Janine Heft, Mayor Pro Tempore
Erica Pezold, Council Member**

**Dore J. Gilbert, M.D., Council Member
Dave Wheeler, Council Member**

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

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

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

GENERAL BUSINESS - CONVENING AT 7:00 PM

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE: COUNCIL MEMBER WHEELER

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 Blake Jaffe.

1.2 Fire Prevention Week, October 6, 2019, through October 12, 2019

Recommendation: That the City Council issue a Proclamation declaring October 6, 2019, through October 12, 2019, as "Fire Prevention Week" and that Mayor Sedgwick present the Proclamation to Michael Contreras, Division Chief, Orange County Fire Authority .

1.3 SVUSD Facilities Master Plan Presentation

Recommendation: That the City Council receive a presentation from Robert Craven, Assistant Superintendent of Facilities at SVUSD.

2. PUBLIC COMMENTS

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

3. CONSENT CALENDAR

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

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

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

3.2 Approval of Minutes for September 10, 2019, Regular Meeting

Recommendation: That the City Council approve the Minutes for the September 10, 2019, Regular Meeting.

3.3 Approval of Warrant Register for October 8, 2019

Recommendation: That the City Council ratify the accompanying Warrant Register for the period from August 30, 2019, to September 26, 2019, in the amount of \$1,292,336.30.

3.4 Memorandum of Understanding with Special District Risk Management Authority (SDRMA)

Recommendation: That the City Council authorize the City Manager to execute the Memorandum of Understanding and adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, approving the form of and authorizing the execution of a Memorandum of Understanding and authorizing participation in the Special District Risk Management Authority's Health Benefits Program."

3.5 Amendment to the Joint Powers Agreement with the Exclusive Risk Management Authority of California

Recommendation: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, approving amendments to the Exclusive Risk Management Authority of California Joint Powers Agreement".

3.6 Proposed Office Lease for Suite 320 with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California

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

3.7 Amendment No. 2 to Lease with the Banc of California, a National Association, for 24033 El Toro Rd., Suite 130, Laguna Hills, California

Recommendation: That the City Council approve Amendment No. 2 to the Lease with the Banc of California, a National Association, for 24033 El Toro Road, Suite

130, Laguna Hills, California, and authorize the Mayor to execute the Amendment.

3.8 Cooperative Agreement No. C-9-1420 Between the Orange County Transportation Authority and the Cities of Irvine, Laguna Hills and Lake Forest for the Lake Forest Drive Regional Traffic Signal Synchronization Program Project

Recommendation: That the City Council approve Cooperative Agreement No. C-9-1420 with the Orange County Transportation Authority for the Lake Forest Drive Regional Traffic Signal Synchronization Program Project and authorize the Mayor to sign the Agreement.

3.9 Proposed Professional Services Agreement with IDS Group, Inc., for the Engineering Design Services for the Laguna Hills Community Center Roof and HVAC Refurbishment Project, CIP No. 513-B.

Recommendation: That the City Council approve a proposed Professional Services Agreement with the engineering firm IDS Group, Inc., for engineering design services for the Community Center Roof and HVAC Refurbishment Project and Feasibility Study for a potential new HVAC system in gymnasium and authorize the Mayor to execute the proposed Professional Services Agreement with IDS Group, Inc., for CIP No. 513-B.

3.10 Adoption of a Resolution in Support of the City's Future Application for Proposition 68 Per Capita Funding

Recommendation: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, approving application(s) for Per Capita Grant Funds."

3.11 Fiscal Year 2018/2019 Citizens Options for Public Safety (COPS) Fund Budget Amendment

Recommendation: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, amending the Fiscal Year 2018/2019 Budget for the Citizens Option for Public Safety (COPS) Fund."

3.12 Side Street Stop Sign Installation on Mustang Drive at Buckskin Drive

Recommendation: That the City Council: (1) Find and determine that the proposed stop control intersection is not subject to the California Environmental Quality Act pursuant to Sections 15060(C)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(C)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, Cal. Code of Regs, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and (2) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, designating the intersection of Mustang Drive and Buckskin Drive as a stop intersection and authorizing the installation of a one-way side street stop sign on Mustang Drive at Buckskin Drive."

3.13 Extension of a No Parking Zone on the Southerly Side of Gordon Road for Sight Distance Near Imperial Drive (Private Street) and Establishing a No Parking Zone on the Northerly Side of Gordon Road Near Moulton Parkway for Right Turn Access

Recommendation: That the City Council: (1) Find and determine that the proposed parking regulations are not subject to the California Environmental Quality Act pursuant to Sections 15301 (the activity applies to the operation of existing streets, and will not expand the use of those existing streets) and 15061(B)(3) (the activity has no potential for causing a significant effect on the environment) of the CEQA Guidelines, Cal. Code of Regs, Title 14, Chapter 3; and (2) adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, extending the No Parking Anytime zone on the southerly side of Gordon Road for 30 feet westerly of Imperial Drive (private street) and establishing a No Parking Anytime zone on the northerly side of Gordon Road for 120 feet easterly of Moulton Parkway."

3.14 Establishment of City Council Policy No. 125 Regarding Procedures for the Delivery of the City Council Meeting Agenda and Agenda Packet

Recommendation: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, adopting City Council Policy No. 125 regarding procedures for the delivery of the City Council meeting agenda and agenda packet."

ITEMS REMOVED FROM THE CONSENT CALENDAR**4. PLANNING AGENCY****4.1. ROLL CALL OF PLANNING AGENCY MEMBERS****4.2. PUBLIC COMMENTS**

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

4.3. APPROVAL OF MINUTES**4.3.1 Approval of Minutes for September 10, 2019, Regular Meeting**

Recommendation: That the Planning Agency approve the Minutes for the September 10, 2019, Regular Meeting.

4.4. ADMINISTRATIVE REPORTS**4.5. PLANNING AGENCY PUBLIC HEARINGS****PLANNING AGENCY ADJOURNMENT****5. CITY COUNCIL PUBLIC HEARINGS****6. ADMINISTRATIVE REPORTS****6.1. City Manager****6.1.1 Permanent Memorial for the 3/5 Darkhorse Marine Battalion**

Recommendation: That the City Council direct staff to initiate the recommended design process for a permanent memorial for the City's adopted 3/5 Darkhorse Marine Battalion at the Civic Center.

6.1.2 Five Lagunas Redevelopment Project Status Update (24155 Laguna Hills Mall, Laguna Hills, CA 92653)

Recommendation: That the City Council receive and file this status report.

6.2. Community Development Director**6.2.1 Staff Presentation Regarding the Regional Housing Needs Assessment (RHNA) for the Upcoming Sixth Cycle Housing Element (2021-2029)**

Recommendation: That the City Council receive and file the report.

6.3. Deputy City Manager/Community Services Director**6.3.1 City-Wide Holiday Decoration Plan and Agreement**

Recommendation: That the City Council: (1) Waive competitive formal bidding requirements and procedures set forth in the City of Laguna Hills Municipal Code (LHMC) Section 3-08.090 with regard to approval of the proposed Holiday Lighting Agreement with The Christmas Kings (TCK), as it is hereby found and determined, pursuant to LHMC Section 3-08.110, that compliance is not in the City's best interest at this time; and (2) Approve the Agreement and authorize the City Manager to execute the Agreement for the Holiday Decoration Plan as revised by the City Council Ad Hoc Committee.

7. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS**8. CITY COUNCIL MEMBER COMMENTS****ADJOURNMENT**

The next Regular Meeting of the City Council/Planning Agency currently scheduled for October 22, 2019, will be canceled. The next regularly scheduled City Council/Planning Agency meeting will be held November 12, 2019, in the City Council Chamber, located at 24035 El Toro Road, Laguna Hills, California.

CERTIFICATION

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, do hereby certify that a copy of the foregoing Agenda was posted at Laguna Hills City Hall, Laguna Hills Community Center, and the Courtyard at La Paz Center by October 2, 2019, at 5:00 pm.



City Clerk

October 2, 2019

Date

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

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

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



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019
TO: Mayor and Council Members
FROM: Melissa Au-Yeung
Deputy City Manager
ISSUE: Fire Prevention Week, October 6, 2019, through October 12, 2019

RECOMMENDATION: That the City Council issue a Proclamation declaring October 6, 2019, through October 12, 2019, as "Fire Prevention Week" and that Mayor Sedgwick present the Proclamation to Michael Contreras, Division Chief, Orange County Fire Authority .

SUMMARY:

The Orange County Fire Authority (OCFA) has requested that the City of Laguna Hills proclaim October 6, 2019, through October 12, 2019, as "Fire Prevention Week." This year's theme, "Not every hero wears a cape. Plan and practice your escape!," effectively serves to educate the public about the small but important actions they can take to keep themselves and those around them safe.

ATTACHMENTS:

- Proclamation - Fire Prevention Week



CITY OF LAGUNA HILLS

PROCLAMATION

FIRE PREVENTION WEEK

OCTOBER 6, 2019, THROUGH OCTOBER 12, 2019

WHEREAS, *fire is a serious public safety concern both locally and nationally, and homes are where people are at greatest risk from fire; and*

WHEREAS, *U.S. fire departments respond to an average of 355,400 home fires per year resulting in an annual average of 2,560 civilian fire deaths; and*

WHEREAS, *newer homes are built with lightweight materials that burn faster than older home constructions, with many of today's products and furnishings producing toxic gases and smoke when burned, making it impossible to see and breathe within moments; and*

WHEREAS, *these conditions contribute to a much smaller window of time for people to escape a home fire safely, with people having as little as one to two minutes to escape from the time the smoke alarm sounds; and*

WHEREAS, *Orange County residents are responsive to public education and outreach measures and can take personal steps to increase their safety from fire, especially in their homes; and*

WHEREAS, *the 2019 Fire Prevention Week theme, "Not every hero wears a cape. Plan and practice your escape!" effectively serves to educate the public about the small but important actions they can take to keep themselves and those around them safe; and*

WHEREAS, *taking steps to reduce the likelihood of fire and escape planning and practice can help make the most of the time you have to get everyone out of the house safely.*

NOW, THEREFORE, I, Don Sedgwick, Mayor, on behalf of the City Council of the City of Laguna Hills, California, do hereby proclaim the week of October 6, 2019, through October 12, 2019, as "Fire Prevention Week" throughout the City and urge everyone to develop a home fire escape plan with all members of the household and practice it twice a year, and to participate in the many public safety activities and efforts of Orange County Fire Authority's fire and emergency services during Fire Prevention Week 2019.

Dated this 8th day of October 2019.

DON SEDGWICK, MAYOR



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019
TO: Mayor and Council Members
FROM: Jennifer Lee
Assistant City Clerk
ISSUE: Approval of Minutes for September 10, 2019, Regular Meeting

RECOMMENDATION: That the City Council approve the Minutes for the September 10, 2019, Regular Meeting.

ATTACHMENTS:

- 190910 CC Minutes

**CITY OF LAGUNA HILLS
CITY COUNCIL/PLANNING AGENCY**

**REGULAR MEETING
MINUTES
Tuesday, September 10, 2019**

GENERAL BUSINESS - CONVENING AT 7:00 PM

CALL TO ORDER

The meeting was called to order at 7:01 p.m. by Mayor Sedgwick.

PLEDGE OF ALLEGIANCE: BOY SCOUT TROOP 12

ROLL CALL OF CITY COUNCIL MEMBERS

Attendee Name	Title	Status	Arrived
Don Sedgwick	Mayor	Present	
Janine Heft	Mayor Pro Tempore	Present	
Dore J. Gilbert, M.D.	Council Member	Present	
Erica Pezold	Council Member	Present	
Dave Wheeler	Council Member	Present	

1. PRESENTATIONS AND PROCLAMATIONS

1.1 Appointment of Laguna Hills High School Student Liaisons Kira Presley and Blake Jaffe for the 2019 Fall Semester

Recommendation: Mayor Sedgwick presented Certificates of Appointment to Student Liaison Kira Presley and Student Liaison Blake Jaffe.

1.2 Laguna Hills High School Student Liaison

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

2. PUBLIC COMMENTS

There were no Public Comments.

3. CONSENT CALENDAR

Motion to approve the Consent Calendar, with Mayor Pro Tempore Heft removing Item No. 3.5.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dore J. Gilbert, M.D., Council Member
SECONDER:	Janine Heft, Mayor Pro Tempore
AYES:	Don Sedgwick, Mayor; Janine Heft, Mayor Pro Tempore; Dore J. Gilbert, M.D., Council Member; Erica Pezold, Council Member; Dave Wheeler, Council Member

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

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

3.2 Approval of Minutes for July 9, 2019, Regular Meeting

Recommendation: That the City Council approve the Minutes for the July 9, 2019, Regular Meeting.

3.3 Approval of Minutes for August 27, 2019, Regular Meeting

Recommendation: That the City Council approve the Minutes for the August 27, 2019, Regular Meeting.

3.4 Approval of Warrant Register for September 10, 2019

Recommendation: That the City Council ratify the accompanying Warrant Register for the period from August 16, 2019, to August 29, 2019, in the amount of \$196,914.91.

ITEMS REMOVED FROM THE CONSENT CALENDAR

3.5 Community Assistance Funding for the Laguna Hills Chamber of Commerce

Mayor Pro Tempore Heft removed Item No. 3.5 to recuse herself from participating in any discussion or vote on the item.

Recommendation: That the City Council adopt Resolution No. 2019-09-10-1: "A Resolution of the City Council of the City of Laguna Hills, California, authorizing Community Assistance Funding for the Laguna Hills Chamber of Commerce, a California 501 (C)(3) Nonprofit Public Benefit Corporation."

RESULT:	APPROVED [4 TO 0]
MOVER:	Dore J. Gilbert, M.D., Council Member
SECONDER:	Dave Wheeler, Council Member
AYES:	Don Sedgwick, Mayor; Dore J. Gilbert, M.D., Council Member; Erica Pezold, Council Member; Dave Wheeler, Council Member
RECUSED:	Janine Heft, Mayor Pro Tempore

4. PLANNING AGENCY

Mayor Sedgwick recessed the City Council Meeting, and acting in capacity as Chair, called the Regular Meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:14 p.m.

4.1. ROLL CALL OF PLANNING AGENCY MEMBERS

Attendee Name	Title	Status	Arrived
Don Sedgwick	Chair	Present	
Janine Heft	Vice Chair	Present	
Dore J. Gilbert, M.D.	Agency Member	Present	
Erica Pezold	Agency Member	Present	
Dave Wheeler	Agency Member	Present	

4.2. PUBLIC COMMENTS

There were no Planning Agency Public Comments.

4.3. APPROVAL OF MINUTES

4.3.1 Approval of Minutes for August 27, 2019, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the August 27, 2019, Regular Meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dave Wheeler, Agency Member
SECONDER:	Janine Heft, Vice Chair
AYES:	Don Sedgwick, Chair; Janine Heft, Vice Chair; Dore J. Gilbert, M.D., Agency Member; Erica Pezold, Agency Member; Dave Wheeler, Agency Member

4.4. ADMINISTRATIVE REPORTS

There were no Planning Agency Administrative Reports.

4.5. PLANNING AGENCY PUBLIC HEARINGS

4.5.1 Site Development Permit/Master Sign Program No. 7-18-4264, a Request to Establish a Master Sign Program for the MemorialCare Saddleback Medical Center Located at 24411, 24421, and 24451 Health Center Drive

Assistant Planner Parker reviewed the information provided in the staff report and provided a PowerPoint presentation.

Chair Sedgwick opened the Public Hearing, and upon seeing no one rise, closed the Public Hearing.

The applicant, Art Navarro, Vice President of Sales at Signtech, agreed to the conditions of approval and responded to Planning Agency requests for additional information.

Recommendation: That the Planning Agency take the following actions: (1) Conduct a Public Hearing; (2) Find and Determine that the Project is Categorically Exempt from the California Environmental Quality Act Pursuant to Sections 15301(g) and 15311(a) of Title 14, Chapter 3 of the California Code of Regulations (Class 1 (g) Existing Facilities Exemption, and Class 11(a), Accessory Structures Exemption); and (3) Adopt Resolution No. PA2019-09-10-1: "A Resolution of the Planning Agency of the City of Laguna Hills, California, approving Site Development Permit/Master Sign Program No. 7-18-4264, a request to establish a Master Sign Program for the MemorialCare Saddleback Medical Center located at 24411, 24421, and 24451 Health Center Drive."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Vice Chair
SECONDER:	Dave Wheeler, Agency Member
AYES:	Don Sedgwick, Chair; Janine Heft, Vice Chair; Dore J. Gilbert, M.D., Agency Member; Erica Pezold, Agency Member; Dave Wheeler, Agency Member

PLANNING AGENCY ADJOURNMENT

Mayor Sedgwick reconvened the City Council Meeting at 7:27 p.m. All Council Members were present.

5. CITY COUNCIL PUBLIC HEARINGS

There were no City Council Public Hearings.

6. ADMINISTRATIVE REPORTS**6.1. City Manager**

The City Manager gave no Administrative Reports.

6.2. Deputy City Manager/City Clerk**6.2.1 A Request from the Southern California Gas Company to Adopt a Resolution Supporting Balanced Energy Solutions**

Deputy City Manager Au-Yeung reviewed the information provided in the staff report.

Karalee Darnell, Government Affairs Manager at Southern California Edison, voiced her concerns regarding adoption of the proposed Resolution.

Juan Gonzalez, Public Affairs Manager at Southern California Gas Company, spoke in favor of the proposed Resolution.

Recommendation: That the City Council consider a request from the Southern California Gas Company to adopt Resolution No. 2019-09-10-2: "A Resolution of the City Council of the City of Laguna Hills, California, supporting balanced energy solutions."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dave Wheeler, Council Member
SECONDER:	Janine Heft, Mayor Pro Tempore
AYES:	Don Sedgwick, Mayor; Janine Heft, Mayor Pro Tempore; Dore J. Gilbert, M.D., Council Member; Erica Pezold, Council Member; Dave Wheeler, Council Member

6.3. Deputy City Manager/Community Services Director**6.3.1 Proposed Consulting Services Agreement with Mercy House Living Centers to Provide Homeless Outreach Services Within the City of Laguna Hills**

Deputy City Manager Reynolds reviewed the information provided in the staff report and responded to Council requests for additional information.

Recommendation: That the City Council approve and authorize the Mayor to execute a proposed Consulting Services Agreement with Mercy House Living Centers to provide homeless outreach services for Fiscal Year 2019/20 in the not to exceed amount of \$15,564.

RESULT:	APPROVED [4 TO 0]
MOVER:	Dore J. Gilbert, M.D., Council Member
SECONDER:	Janine Heft, Mayor Pro Tempore
AYES:	Don Sedgwick, Mayor; Janine Heft, Mayor Pro Tempore; Dore J. Gilbert, M.D., Council Member; Erica Pezold, Council Member
ABSTAIN:	Dave Wheeler, Council Member

6.3.2 2019 Fourth of July Post Event Report

Recommendation: That the City Council receive and file the report.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dore J. Gilbert, M.D., Council Member
SECONDER:	Janine Heft, Mayor Pro Tempore
AYES:	Don Sedgwick, Mayor; Janine Heft, Mayor Pro Tempore; Dore J. Gilbert, M.D., Council Member; Erica Pezold, Council Member; Dave Wheeler, Council Member

6.3.3 City-Wide Holiday Decoration Plan and Agreement

Community Services Superintendent Meehan reviewed the information provided in the staff report, provided a PowerPoint presentation and responded to Council requests for additional information.

Recommendation: That the City Council: 1) Waive competitive formal bidding requirements and procedures set forth in the City of Laguna Hills

Municipal Code (LHMC) Section 3-08.090 with regard to approval of the proposed Holiday Lighting Agreement with The Christmas Kings (TCK), as it is hereby found and determined, pursuant to LHMC Section 3-08.110, that compliance is not in the City's best interest at this time based on the information presented herein by City Staff; and 2) Approve the Agreement and authorize the City Manager to execute the agreement.

Motion to table this item and form an Ad Hoc Committee comprised solely of two Council Members, Mayor Pro Tempore Heft and Council Member Pezold, to work with City Staff and The Christmas Kings on a revised scope of work to be attached to a contract to be returned at the next Council Meeting, if possible, or to call a Special Meeting, if necessary.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dave Wheeler, Council Member
SECONDER:	Janine Heft, Mayor Pro Tempore
AYES:	Don Sedgwick, Mayor; Janine Heft, Mayor Pro Tempore; Dore J. Gilbert, M.D., Council Member; Erica Pezold, Council Member; Dave Wheeler, Council Member

7. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS

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

8. CITY COUNCIL MEMBER COMMENTS

Council Member Wheeler

Council Member Wheeler expressed his appreciation to Boy Scout Troop 12 for leading the Pledge of Allegiance at the meeting.

For purposes of clarity, the following verbatim minutes are hereby provided:

Council Member Wheeler: "Our mall is not happening and I have not heard anything from Merlone Geier and the new group F.L.A.G. I would like to see this put on the Agenda. I have talked to counsel Simonian if we have subpoena power and I guess he said no, so we don't, but I would like to offer the invitation to those groups to come and tell us what's going on. It's been, what?, three or four months since we've heard anything. It's important to our City. We need to, I mean even though it's private property, we don't have a lot of authority or anything, but I think we have a right to say,

‘Hey guys, what’s going on? You are a vital part of our community and we want to know what’s going on and what’s the status. Come and tell us.’ Merlone Geier and F.L.A.G. to come and state whatever they wish to state, preferably the status of what’s going on.”

Council Member Pezold: “I would like to support Mr. Wheeler to open it up for discussion at the next meeting.”

Mayor Pro Tempore Heft

Mayor Pro Tempore Heft reported that her son achieved Star status in Boy Scouts.

Mayor Pro Tempore shared feedback from the principals of the three elementary schools located in Laguna Hills showing their support for the Laguna Hills Elementary School Student Liaison Program.

Council Member Pezold

Council Member Pezold provided a reminder that tomorrow is September 11th and the significance of the date.

Assistant City Manager/Public Services Director Rosenfield informed the Council of a meeting schedule for October 29, 2019, at the Laguna Hills Community Center between Moulton Niguel Water District and all South County Cities called H₂O for HOAs.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Sedgwick declared the meeting adjourned at 9:22 p.m.

Melissa Au-Yeung, City Clerk

ATTEST:

Don Sedgwick, Mayor

Approved at meeting of October 8, 2019



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019
TO: Mayor and Council Members
FROM: Janice Reyes
Finance Director
ISSUE: Approval of Warrant Register for October 8, 2019

RECOMMENDATION: That the City Council ratify the accompanying Warrant Register for the period from August 30, 2019, to September 26, 2019, in the amount of \$1,292,336.30.

SUMMARY:

The City issues accounts payable disbursements on a regular basis and presents it to City Council for ratification at its next regularly scheduled City Council Meeting. The attached Warrant Register containing checks and electronic funds transfers for the period from August 30, 2019, to September 26, 2019, is being presented for ratification by the City Council. Payments have been reviewed and approved by the appropriate departmental staff. The Director of Finance certifies to the accuracy of the attached register and to the availability of monies for payment thereof.

ATTACHMENTS:

- Warrant Register - October 8, 2019
- Warrant Register Payables Detail Report - October 8, 2019



City of Laguna Hills, CA

Warrant Register - October 08, 2019

By Check Number

Date Range: 08/30/2019 - 09/26/2019

Check Number	Vendor Number	Vendor Name	Payment Date	Payment Amount
Payment Type: Regular				
8816705	Z-CS-0123	PEREZ, MARIA	09/04/2019	343.00
8816706	C-0333	CALIF PARK & REC SOCIETY, INC.	09/05/2019	145.00
8816707	C-0324	CITY OF MISSION VIEJO	09/05/2019	52,026.75
8816708	C-1176	COMPUTER SERVICE CO.	09/05/2019	4,872.80
8816709	C-0023	COX COMMUNICATION	09/05/2019	614.12
8816710	D-0461	DATA TICKET, INC.	09/05/2019	1,959.57
8816711	D-0561	DOCU-TRUST LAGUNA VAULT	09/05/2019	75.00
8816712	E-0504	EL TORO WATER DISTRICT	09/05/2019	14,594.02
8816713	G-0861	GOVERNMENT TAX SEMINARS, LLC	09/05/2019	430.00
8816714	H-0829	HARTZOG & CRABILL, INC.	09/05/2019	5,225.23
8816715	M-1302	MOULTON NIGUEL WATER DISTRICT	09/05/2019	5,476.49
8816716	N-1474	NIEVES LANDSCAPE, INC.	09/05/2019	89,074.00
8816717	O-1546	OFFICE SOLUTIONS	09/05/2019	705.05
8816718	P-1695	PRESENTA PLAQUE, INC.	09/05/2019	129.66
8816719	R-1975	RAHE ELECTRIC	09/05/2019	1,450.60
8816720	Z-CD-0177	SEELEY, STEVE	09/05/2019	1,060.60
8816721	S-2296	SHUTE, MIHALY WEINBERGER LLP	09/05/2019	733.80
8816722	S-2250	SPARKLETTS	09/05/2019	137.36
8816723	S-2209	STUDIO TWO BLACK DIAMOND	09/05/2019	48.49
8816724	S-2201	SUNSET PROPERTY SERVICES JONSET CORPORATION	09/05/2019	12,016.27
8816725	U-2165	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	09/05/2019	187.05
8816726	W-2448	WEST GATE CONTRACTOR	09/05/2019	4,463.00
8816727	W-2300	WHITE, DONALD	09/05/2019	375.00
8816728	Z-CS-0191	CAMDEN PARK SERVICE CORPORATION	09/12/2019	250.00
8816729	C-1184	CEP AMERICA AUC PC	09/12/2019	230.00
8816730	C-1144	CHARLES ABBOTT ASSOCIATES, INC	09/12/2019	50,883.85
8816731	C-1139	COMPLETE OFFICE OF CALIFORNIA	09/12/2019	743.32
8816732	C-1176	COMPUTER SERVICE CO.	09/12/2019	8,574.95
8816733	Z-CD-0179	CONTEMPORARY POOLS AND SPAS	09/12/2019	500.00
8816734	C-0023	COX COMMUNICATION	09/12/2019	195.86
8816735	D-0461	DATA TICKET, INC.	09/12/2019	816.66
8816736	Z-CD-0178	DC ROOFING & WATERPROOFING SYSTEMS	09/12/2019	750.00
8816737	D-0491	DELL COMPUTER CORPORATION	09/12/2019	18,495.18
8816738	E-0595	ECLIPSE MESSENGER SERVICE, INC	09/12/2019	71.97
8816739	E-0554	ECONOMICS, INC.	09/12/2019	7,307.86
8816740	F-0719	FOUNDATIONS DANCE STUDIO	09/12/2019	1,479.80
8816741	G-0862	GRANICUS	09/12/2019	1,512.00
8816742	I-0942	IRVINE RANCH WATER DISTRICT	09/12/2019	166.86
8816743	J-1057	JAMEY CLARK, INC.	09/12/2019	376.00
8816744	L-1362	LAGUNA HILLS TEAM DARK HORSE	09/12/2019	9,051.00
8816745	Z-CD-0092	MERLONE GEIER	09/12/2019	1,370.00
8816746	M-1302	MOULTON NIGUEL WATER DISTRICT	09/12/2019	23,888.05
8816747	N-1433	NEW HORIZONS COMPUTER LEARNING CENTERS	09/12/2019	4,800.00
8816748	O-1546	OFFICE SOLUTIONS	09/12/2019	425.40
8816749	O-1575	ORANGE COUNTY REGISTER-FREEDOM CA. NEWSPAPER PARTNERSHIP	09/12/2019	606.00
8816750	C-1003	PARKING VIOLATIONS OC TREASURER-TAX COLLECTOR	09/12/2019	1,777.50
8816751	P-1829	PEST OPTIONS, INC.	09/12/2019	225.00
8816752	Q-1707	QUEST DIAGNOSTICS	09/12/2019	18.87
8816753	R-1934	RENEGADE RACING MAKE-U-FIT PRODUCTIONS	09/12/2019	3,500.00

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Check Number	Vendor Number	Vendor Name	Payment Date	Payment Amount
8816754	R-1813	RPW SERVICES, INC.	09/12/2019	1,560.00
8816755	S-1902	SAN DIEGO GAS & ELECTRIC	09/12/2019	9,826.13
8816756	S-1935	SAN JOAQUIN HILLS TRANSPORT CORRIDOR AGENCY,	09/12/2019	516.12
8816757	S-2289	SANDS, CINDY	09/12/2019	185.87
8816758	S-2194	SECURE LIVE SCAN	09/12/2019	25.00
8816759	Z-CD-0082	SILVER SPRINGS POOLS & SPAS, INC.	09/12/2019	500.00
8816760	Z-CS-0190	SILVERADO HIGH SCHOOL	09/12/2019	80.00
8816761	S-1949	SMART & FINAL	09/12/2019	242.77
8816762	S-1944	SOUTHERN CALIF MUN ATHLETIC FEDERATION	09/12/2019	570.00
8816763	S-1904	SOUTHERN CALIFORNIA EDISON	09/12/2019	13,827.70
8816764	S-1980	STATE DEPARTMENT OF JUSTICE ACCOUNTING OFFICE	09/12/2019	32.00
8816765	S-2209	STUDIO TWO BLACK DIAMOND	09/12/2019	188.56
8816766	T-2698	TPX COMMUNICATIONS	09/12/2019	477.81
8816767	V-2249	US BANK VOYAGER FLEET SYSTEM	09/12/2019	1,865.43
8816768	V-2224	VERIZON WIRELESS	09/12/2019	1,444.78
8816769	W-2337	WEST COAST ARBORISTS, INC.	09/12/2019	26,566.55
8816770	W-2302	WEST PUBLISHING CORPORATION THOMSON REUTERS - WEST	09/12/2019	251.52
8816771	C-1192	CULINARY COOKING KIDS LLC	09/18/2019	5,600.00
8816772	A-0317	ABRAHAM, MICHAEL	09/19/2019	3,000.00
8816773	A-0138	ALL CITY MANAGEMENT, INC.	09/19/2019	4,468.96
8816774	B-0437	BRINKS, INCORPORATED	09/19/2019	151.03
8816775	C-1133	CALIFORNIA YELLOW CAB	09/19/2019	1,218.00
8816776	C-1177	CANON FINANCIAL SERVICES, INC.	09/19/2019	533.69
8816777	C-1179	CANON SOLUTIONS AMERICA	09/19/2019	289.86
8816778	C-1139	COMPLETE OFFICE OF CALIFORNIA	09/19/2019	1,364.80
8816779	C-1136	CORELOGIC INFORMATION SOLUTION, INC.	09/19/2019	9,836.50
8816780	C-0023	COX COMMUNICATION	09/19/2019	1,136.31
8816781	D-0491	DELL COMPUTER CORPORATION	09/19/2019	30,120.91
8816782	C-1190	FINGERPRINT ID (AFIS) LAW ENF. - COUNTY OF ORANGE	09/19/2019	1,503.00
8816783	Z-CS-0192	GRACE LESHER	09/19/2019	250.00
8816784	K-1193	KOSMONT COMPANIES	09/19/2019	358.80
8816785	L-1226	LAGUNA HILLS CHAMBER OF COMMERCE	09/19/2019	7,500.00
8816786	Z-CS-0193	MONARREZ, ELIZABETH	09/19/2019	500.00
8816787	C-1007	OCSO LAW ENFORCEMENT CONTRACT, OC TREASURER-TAX COLLECTOR	09/19/2019	681.04
8816788	Z-CS-0020	PACIFIC SUN LEAGUE	09/19/2019	500.00
8816789	R-1841	ROSENFELD, KEN	09/19/2019	1,000.04
8816790	S-2250	SPARKLETTS	09/19/2019	149.38
8816791	Z-CS-0185	TERAN, JUANITA	09/19/2019	100.00
8816792	X-2400	XEROX CORPORATION	09/19/2019	643.40
8816793	B-0436	BEACH BUS BISTRO, LLC	09/26/2019	230.00
8816794	A-0349	A SOURCE OF PRIDE	09/26/2019	37.17
8816795	Z-CD-0180	AKC PERMIT COMPANY KELLEY FRANCHISE	09/26/2019	357.41
8816796	Z-CD-0188	AMERISERVE	09/26/2019	147.05
8816797	A-0359	ANDERSON PENNA PARTNERS, INC.	09/26/2019	15,694.00
8816798	A-0365	AT&T - CALNET 3	09/26/2019	242.60
8816799	B-0438	BC Traffic Specialist	09/26/2019	120.87
8816800	B-0304	BEE MAN, THE	09/26/2019	155.00
8816801	Z-CD-0182	BENITEZ, EDGAR	09/26/2019	1,500.00
8816802	Z-CD-0130	BIENEK, DAVID	09/26/2019	5,100.00
8816803	Z-CD-0184	CHASTAW, TONY	09/26/2019	500.00
8816804	D-0461	DATA TICKET, INC.	09/26/2019	803.37
8816805	C-1004	DISTRICT ATTORNEY'S OFFICE COUNTY OF ORANGE	09/26/2019	258.15
8816806	Z-CD-0185	DONAHUE, JOHN	09/26/2019	100.00
8816807	G-0844	GREEN MART, INC.	09/26/2019	538.75
8816808	G-0843	GRIEGO-SANDS, CINDY	09/26/2019	52.14
8816809	Z-CD-0186	GUARDIAN ROOFS	09/26/2019	900.00
8816810	H-0960	HR GREEN PACIFIC, INC.	09/26/2019	27,614.24
8816811	Z-CD-0183	HUNTER CONSTRUCTION CO. C/O STU HUNTER	09/26/2019	264.90
8816812	Z-CD-0147	JIM MURRAY ROOFING INC.	09/26/2019	3,390.00
8816813	G-0709	JOE A. GONSALVES & SON	09/26/2019	2,900.00
8816814	C-0448	LUCY, STEVEN	09/26/2019	500.00

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Check Number	Vendor Number	Vendor Name
8816815	M-1585	MCDONALD, KAYLE
8816816	M-1302	MOULTON NIGUEL WATER DISTRICT
8816817	O-1546	OFFICE SOLUTIONS
8816818	P-1614	PLANNING DIRECTORS ASSN OF OC
8816819	Z-CD-0187	PRICE, JILL LESLIE
8816820	R-1976	REAL ESTATE CONSULTING & SERVICES, INC.
8816821	Z-CD-0189	REHM, JEFF
8816822	Z-CD-0081	REPIPE 1
8816823	Z-CD-0181	SAKUT, STEVE & KERI
8816824	S-1902	SAN DIEGO GAS & ELECTRIC
8816825	S-2289	SANDS, CINDY
8816826	Z-CD-0036	SERVICE ROOFING COMPANY
8816827	Z-CD-0174	SOLAR POWER SUPPLY
8816828	T-2709	TOT LOT PROS
8816829	W-2337	WEST COAST ARBORISTS, INC.
8816830	R-1801	WOODRUFF, SPRADLIN & SMART

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Payment Date	Payment Amount
09/26/2019	95.53
09/26/2019	4,911.70
09/26/2019	144.01
09/26/2019	125.00
09/26/2019	195.44
09/26/2019	881.05
09/26/2019	750.00
09/26/2019	147.05
09/26/2019	1,379.60
09/26/2019	29,861.15
09/26/2019	866.54
09/26/2019	1,200.00
09/26/2019	270.00
09/26/2019	1,725.00
09/26/2019	21,358.50
09/26/2019	15,744.32

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Payment Type: Bank Draft				
DFT0000953	B-0276	BANK OF AMERICA VISA CARD	09/13/2019	3,776.77
DFT0000954	B-0276	BANK OF AMERICA VISA CARD	09/13/2019	213.58
DFT0000955	B-0276	BANK OF AMERICA VISA CARD	09/13/2019	11,366.16
DFT0000956	B-0276	BANK OF AMERICA VISA CARD	09/13/2019	1,474.06
DFT0000957	B-0276	BANK OF AMERICA VISA CARD	09/13/2019	330.09
DFT0000958	B-0276	BANK OF AMERICA VISA CARD	09/13/2019	306.98
DFT0000959	C-1007	OCSD LAW ENFORCEMENT CONTRACT, OC TREASURER-TAX COLLECTOR	09/17/2019	670,583.17

Bank Code AP Bank Summary				
	Payable	Payment		
Payment Type	Count	Count	Discount	Payment
Regular Checks	163	126	0.00	604,285.49
Manual Checks	0	0	0.00	0.00
Bank Drafts	7	7	0.00	688,050.81
EFT's	0	0	0.00	0.00
	170	137	0.00	1,292,336.30

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City of Laguna Hills, CA

Warrant Register- Payable Detail Report

By Func

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Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
Fund: 100 - GENERAL FUND					
09/04/2019	PEREZ, MARIA	FSD-0004	Refund, Facility Security Deposit, R# 1031620.002	100-000-220500	343.00
09/05/2019	RAHE ELECTRIC	03-19-clh	Parks Contract Repair, 8/29	100-355-720701	1,450.60
09/05/2019	DOCU-TRUST LAGUNA VAULT	037470	Offsite Data Storage, Aug '19	100-155-700030	75.00
09/05/2019	EL TORO WATER DISTRICT	080819	Water Usage, Public Services, Jul '19	100-355-635000	14,594.02
09/05/2019	MOULTON NIGUEL WATER DISTRICT	081619	Water Usage, Public Services, Aug '19	100-355-635000	215.36
09/05/2019	MOULTON NIGUEL WATER DISTRICT	081619a	Water Usage, Public Services & Com Ctr, Jul '19	100-310-635100	541.57
09/05/2019	MOULTON NIGUEL WATER DISTRICT	081619a	Water Usage, Public Services & Com Ctr, Jul '19	100-355-635000	4,719.56
09/05/2019	COX COMMUNICATION	081819	Cable, City Hall, Aug '19	100-195-630000	32.19
09/05/2019	COX COMMUNICATION	081819a	T-1 Line, Aug '19	100-195-630000	402.31
09/05/2019	COX COMMUNICATION	081919	WiFi, City Hall, Aug '19	100-195-630000	179.62
09/05/2019	CALIF PARK & REC SOCIETY, INC.	082119	Membership, Community Services, TS	100-310-610000	145.00
09/05/2019	WHITE, DONALD	082919a	Travel Advance, Nashville, Oct '19	100-155-612000	375.00
09/05/2019	GOVERNMENT TAX SEMINARS, LLC	090419	Employee Training, Gen Gov, Sep '19	100-155-611000	430.00
09/05/2019	SUNSET PROPERTY SERVICES	118429	Street Sweeping Services, Aug '19	100-355-720410	12,016.27
09/05/2019	JONSET CORPORATION	12194330082119	Operating Supplies, Community Services, Aug '19	100-310-622005	137.36
09/05/2019	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	18dsbfe4533	Street Maintenance, Aug '19	100-355-720400	41.75
09/05/2019	HARTZOG & CRABILL, INC.	19-0500	CIP #168 & Traffic Signal Mgmt Services, Jul '19	100-355-700101	3,327.73
09/05/2019	HARTZOG & CRABILL, INC.	19-0523	Traffic Signal Mgmt Services, Jul-Aug '19	100-355-700101	1,725.00
09/05/2019	PRESENTA PLAQUE, INC.	24740	Office Supplies, Gen Gov, Aug '19	100-155-620000	129.66
09/05/2019	SHUTE, MIHALY	260827	Professional Services, Legal, Jul '19	100-155-700011	733.80
09/05/2019	WEINBERGER LLP	3917-19-008	Traffic Signal Maintenance, Aug '19	100-355-720420	4,872.80
09/05/2019	WEST GATE CONTRACTOR	4	Graffiti Removal, Public Services, Aug '19	100-355-720500	4,463.00
09/05/2019	NIEVES LANDSCAPE, INC.	65842	Monthly and Misc Landscape, Sep '19	100-355-720700	89,074.00
09/05/2019	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	82190368	Street Maintenance, Aug '19	100-355-720400	145.30
09/05/2019	STUDIO TWO BLACK	94864	Printing Services, Aug '19	100-420-622000	48.49
09/05/2019	CITY OF MISSION VIEJO	ARLH20549	Animal Care Services, Jul-Sep '19	100-420-720401	52,026.75
09/05/2019	SEELEY, STEVE	CD-428-SPDA-12-18-4385	Refund, Plan Application, R#00002683	100-000-223000	1,060.60
09/05/2019	OFFICE SOLUTIONS	I-01629672	Office Supplies, Aug '19	100-155-620000	258.65
09/05/2019	OFFICE SOLUTIONS	I-01629672	Office Supplies, Aug '19	100-195-620000	4.05
09/05/2019	OFFICE SOLUTIONS	I-01629672	Office Supplies, Aug '19	100-420-622000	16.32
09/05/2019	OFFICE SOLUTIONS	I-01629682	Office Supplies, Police Services, Aug '19	100-420-621000	410.62
09/05/2019	OFFICE SOLUTIONS	I-01630229	Operating Supplies, Aug '19	100-420-622000	15.41

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Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
09/05/2019	DATA TICKET, INC.	JULYTKTSTK	Parking Citation Equipment	100-420-720823	1,959.57
09/12/2019	CEP AMERICA AUC PC	082819	Pre-Employment Physical, Jul '19	100-195-617000	140.00
09/12/2019	CEP AMERICA AUC PC	082819a	Pre-Employment Physical, Aug '19	100-195-617000	90.00
09/12/2019	COX COMMUNICATION	082919	WiFi Community Center, Sep '19	100-195-630000	195.86
09/12/2019	MOULTON NIGUEL WATER DISTRICT	082919	Water Usage, Public Services, Aug '19	100-355-635000	23,888.05
09/12/2019	SOUTHERN CALIFORNIA EDISON	083119	Street Lights, Traffic Control, Aug '19	100-355-631000	308.52
09/12/2019	SOUTHERN CALIFORNIA EDISON	083119	Street Lights, Traffic Control, Aug '19	100-355-631400	9,272.20
09/12/2019	SOUTHERN CALIFORNIA EDISON	083119	Street Lights, Traffic Control, Aug '19	100-355-631900	4,246.98
09/12/2019	SECURE LIVE SCAN	08922	Pre-employment Fingerprinting, Aug '19	100-195-617000	25.00
09/12/2019	SAN JOAQUIN HILLS TRANSPORT CORRIDOR AGENCY.	090319	Remit, Transportation Corridor Fees, Aug '19	100-000-221006	516.12
09/12/2019	IRVINE RANCH WATER DISTRICT	090319	Water Usage, Public Services, Aug '19	100-355-635000	166.86
09/12/2019	SAN DIEGO GAS & ELECTRIC	090419	Street Lights, Traffic Control, Aug '19	100-355-631400	9,826.13
09/12/2019	LAGUNA HILLS TEAM DARK HORSE	090619	Community Assistance, 3/5 Committee	100-000-451600	9,051.00
09/12/2019	FOUNDATIONS DANCE	090919	Contract Instructor, Dance	100-310-721500	1,479.80
09/12/2019	SANDS, CINDY	091119	Meeting Expense, Sep '19	100-155-622000	185.87
09/12/2019	DELL COMPUTER CORPORATION	10334634947	Computer Hardware, PC Refreshment	100-195-940000	387.78
09/12/2019	DELL COMPUTER CORPORATION	10334709539	Computer Hardware, PC Refreshment	100-195-940000	18,107.40
09/12/2019	DATA TICKET, INC.	103562	Process Fee, Parking Citations, Jul '19	100-420-720823	816.66
09/12/2019	RENEGADE RACING MAKE-U-FIT PRODUCTIONS	1042	Event Management Services, 1/2 Marathon, Sep '19	100-310-695507	3,500.00
09/12/2019	GRANICUS	117161	Agenda Software, Sep '19	100-195-720050	1,512.00
09/12/2019	TPX COMMUNICATIONS	120149265-0	Communications Expense, Sep '19	100-195-630000	477.81
09/12/2019	WEST COAST ARBORISTS, INC.	151479	Tree Trimming Services, Aug '19	100-355-720702	26,566.55
09/12/2019	RPW SERVICES, INC.	16345	Rodent Control, Public Services, Aug '19	100-355-720700	1,560.00
09/12/2019	ECLIPSE MESSENGER SERVICE, INC	218699	Delivery Services, 8/16 - 8/31	100-195-625000	71.97
09/12/2019	COMPLETE OFFICE OF CALIFORNIA	2351490-0	Computer, Office & Operating Supplies, Aug '19	100-195-621000	492.56
09/12/2019	COMPLETE OFFICE OF CALIFORNIA	2351490-0	Computer, Office & Operating Supplies, Aug '19	100-310-620500	25.53
09/12/2019	COMPLETE OFFICE OF CALIFORNIA	2351490-0	Computer, Office & Operating Supplies, Aug '19	100-310-622005	52.69
09/12/2019	COMPLETE OFFICE OF CALIFORNIA	2353946-0	Computer, Office & Operating Supplies, Aug '19	100-195-621000	458.48
09/12/2019	COMPLETE OFFICE OF CALIFORNIA	2356387-0	Operating Supplies, Sep '19	100-310-622005	59.94
09/12/2019	COMPLETE OFFICE OF CALIFORNIA	2356450-0	Computer, Office & Operating Supplies, Sep '19	100-195-621000	323.22
09/12/2019	COMPUTER SERVICE CO.	2825 - 2859	Traffic Signal Maintenance, Aug '19	100-355-720420	8,574.95
09/12/2019	PEST OPTIONS, INC.	335016	Rodent Control, Public Services, Aug '19	100-355-720700	225.00
09/12/2019	SMART & FINAL	3831400034344	Program Supplies, Com Svcs, Aug '19	100-310-695501	77.61

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09/12/2019	SMART & FINAL	3831400051325	Program Supplies, Com Svcs, Aug '19	100-310-695501	132.45
09/12/2019	SMART & FINAL	3831400058616	Program Supplies, Com Svcs, Aug '19	100-310-695501	32.71
09/12/2019	STATE DEPARTMENT OF JUSTICE ACCOUNTING OFFICE	401780	Pre-employment	100-195-617000	32.00
09/12/2019	ORANGE COUNTY REGISTER-FREEDOM CA. NEWSPAPER	452641	Fingerprinting, Aug '19	100-155-624001	606.00
09/12/2019	PARTNERSHIP CHARLES ABBOTT	60047	Road Maintenance, Aug '19	100-355-720400	50,883.85
09/12/2019	ASSOCIATES, INC	6676	Employee Training, Nov '19	100-195-611000	4,800.00
09/12/2019	NEW HORIZONS COMPUTER LEARNING CENTERS	71470	Graffiti Removal, Public Services, Aug '19	100-355-720500	376.00
09/12/2019	JAMEY CLARK, INC.	7861	Program Class Insurance, CS, May - Aug '19	100-310-690500	570.00
09/12/2019	WEST PUBLISHING CORPORATION THOMSON	840861478	Subscription, City Clerk, Aug '19	100-155-626000	251.52
09/12/2019	REUTERS - WEST	869321901934 GENGOV1	Vehicle Fuel, Aug '19	100-155-613100	263.86
09/12/2019	US BANK VOYAGER FLEET SYSTEM	869321901934 GENGOV1	Vehicle Fuel, Aug '19	100-155-646100	9.00
09/12/2019	US BANK VOYAGER FLEET SYSTEM	869321919934 COMDEV	Vehicle Fuel, Aug '19	100-225-613100	106.95
09/12/2019	US BANK VOYAGER FLEET SYSTEM	869321927934 COMSVCS	Vehicle Fuel, Aug '19	100-310-613100	984.53
09/12/2019	US BANK VOYAGER FLEET SYSTEM	869322032934 POLSVCS	Vehicle Fuel, Aug '19	100-420-613100	118.75
09/12/2019	US BANK VOYAGER FLEET SYSTEM	869322040934 PUBSVCS	Vehicle Fuel, Aug '19	100-355-613000	382.30
09/12/2019	QUEST DIAGNOSTICS	9183615194	Pre-employment Drug Testing	100-195-617000	18.87
09/12/2019	STUDIO TWO BLACK	94878	Printing Services, Aug '19	100-195-623000	188.56
09/12/2019	VERIZON WIRELESS	9836845357	Communication Expense, Aug '19	100-000-120000	57.55
09/12/2019	VERIZON WIRELESS	9836845357	Communication Expense, Aug '19	100-195-630000	1,387.23
09/12/2019	DC ROOFING & WATERPROOFING SYSTEMS	CD-429-BLDR-0091-2019	Refund, C&D Deposit, R#	100-000-227001	750.00
09/12/2019	SILVER SPRINGS POOLS & SPAS, INC.	CD-430-SP-2-19-17935	Refund, Pool Bond, R# 3565	100-000-228001	500.00
09/12/2019	CONTEMPORARY POOLS AND SPAS	CD-431-SP-10-18-17460	Refund, Pool Bond, R# 2363	100-000-228001	500.00
09/12/2019	COMPLETE OFFICE OF CALIFORNIA	CM0000057	Credit - Computer Supplies Aug '19	100-195-621000	(669.10)
09/12/2019	MERLONE GEIER	CM0000058	Refund, Developer Deposit, LLA-3-16-3493	100-000-223000	(230.00)
09/12/2019	SILVERADO HIGH SCHOOL	FRD-0187	Refund, Security Deposit, R# 1032064.002	100-000-222000	500.00
09/12/2019	SILVERADO HIGH SCHOOL	FRD-0187	Refund, Security Deposit, R# 1032064.002	100-000-451100	(420.00)
09/12/2019	CAMDEN PARK SERVICE CORPORATION	FRD-0199	Refund, Security Deposit, R# 1032367.002	100-000-222000	250.00
09/12/2019	OFFICE SOLUTIONS	I-01634305	Office/Operating Supplies, Sep '19	100-195-620000	233.57
09/12/2019	OFFICE SOLUTIONS	I-01634305	Office/Operating Supplies, Sep '19	100-195-622000	114.87
09/12/2019	OFFICE SOLUTIONS	I-01634306	Operating Supplies, Sep '19	100-195-622000	76.96
09/12/2019	PARKING VIOLATIONS OC	JUL 19	Parking Fee Surcharge, Jul '19	100-420-720823	1,777.50
09/12/2019	TREASURER-TAX COLLECTOR MERLONE GEIER	SDPA-3448	Refund, Developer Deposit, SDPA-3448	100-000-223000	800.00

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Payment Dates: 08/30/2019 - 09/26/2019

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
09/12/2019	MERLONE GEIER	SDPA-7-16-3580	Refund, Developer Deposit, SDPA-7-16-3580	100-000-223000	800.00
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMDEV	Departmental Expenditure, Aug '19	100-225-611000	30.00
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMDEV	Departmental Expenditure, Aug '19	100-225-626000	238.00
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMDEV	Departmental Expenditure, Aug '19	100-225-646100	62.09
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-195-720050	(499.00)
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-610000	51.00
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-622005	51.36
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-622500	(14.77)
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-622502	496.51
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-695501	3,880.79
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-695502	45.28
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-695505	248.00
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-695506	4,658.15
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-695507	24.99
09/13/2019	BANK OF AMERICA VISA CARD	082019 COMSVCS	Departmental Expenditure, Aug '19	100-310-930500	2,423.85
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV1	Departmental Expenditure, Aug '19	100-000-120000	658.27
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV1	Departmental Expenditure, Aug '19	100-155-610000	190.00
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV1	Departmental Expenditure, Aug '19	100-155-611000	50.00
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV1	Departmental Expenditure, Aug '19	100-155-612000	709.12
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV1	Departmental Expenditure, Aug '19	100-155-626000	48.48
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV1	Departmental Expenditure, Aug '19	100-155-646100	1,900.12
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV1	Departmental Expenditure, Aug '19	100-195-617000	175.00
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV1	Departmental Expenditure, Aug '19	100-195-622000	45.78
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV2	Departmental Expenditure, Aug '19	100-195-617000	142.49
09/13/2019	BANK OF AMERICA VISA CARD	082019 GENGOV2	Departmental Expenditure, Aug '19	100-195-647000	71.09
09/13/2019	BANK OF AMERICA VISA CARD	082019 POLSVCS	Departmental Expenditure, Aug '19	100-420-622000	306.98
09/13/2019	BANK OF AMERICA VISA CARD	082019 PUBSVCS	Departmental Expenditure, Aug '19	100-355-611000	876.00
09/13/2019	BANK OF AMERICA VISA CARD	082019 PUBSVCS	Departmental Expenditure, Aug '19	100-355-622000	62.99
09/13/2019	BANK OF AMERICA VISA CARD	082019 PUBSVCS	Departmental Expenditure, Aug '19	100-355-720400	42.14
09/13/2019	BANK OF AMERICA VISA CARD	082019 PUBSVCS	Departmental Expenditure, Aug '19	100-355-720701	492.93
09/17/2019	OCSD LAW ENFORCEMENT CONTRACT, OC TREASURER- TAX COLLECTOR	SH 54066	Law Enforcement Services, Sep '19	100-420-720800	670,583.17
09/18/2019	CULINARY COOKING KIDS LLC	080619	Contract Instructor Services, Cooking	100-310-721500	5,600.00

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09/19/2019	LAGUNA HILLS CHAMBER OF COMMERCE	00147	Sponsorship	100-155-695000	7,500.00
09/19/2019	COX COMMUNICATION	090519	T-1 Line, Sept '19	100-195-630000	851.31
09/19/2019	COX COMMUNICATION	090719	Traffic Signal, Jul-Sept '19	100-195-630000	285.00
09/19/2019	ROSENFELD, KEN	091319	Travel Reimbursement, APWA PWX, Sept '19	100-355-611000	1,000.04
09/19/2019	XEROX CORPORATION	098002411	Copier Lease & Usage, Aug	100-195-641200	643.40
09/19/2019	DELL COMPUTER CORPORATION	10337614660	Computer Hardware, PC Refreshment	100-195-940000	25,652.15
09/19/2019	DELL COMPUTER CORPORATION	10339150920	Computer Hardware, PC Refreshment	100-195-940000	4,468.76
09/19/2019	ABRAHAM, MICHAEL	19106	Annual Maintenance	100-195-720050	3,000.00
09/19/2019	CANON FINANCIAL SERVICES, INC.	20550350	Lease - Copier, Community Services, Sept '19	100-195-641200	279.86
09/19/2019	CANON FINANCIAL SERVICES, INC.	20550351	Lease - Copier, City Hall, Sept '19	100-195-641200	253.83
09/19/2019	COMPLETE OFFICE OF CALIFORNIA	2358053-0	Operating Supplies, Sept '19	100-195-621000	236.99
09/19/2019	COMPLETE OFFICE OF CALIFORNIA	2358765-0	Computer, Office & Operating Supplies, Sept '19	100-195-621000	424.51
09/19/2019	COMPLETE OFFICE OF CALIFORNIA	2358769-0	Computer, Office & Operating Supplies, Sept '19	100-310-620500	122.25
09/19/2019	COMPLETE OFFICE OF CALIFORNIA	2358769-0	Computer, Office & Operating Supplies, Sept '19	100-310-622005	24.54
09/19/2019	COMPLETE OFFICE OF CALIFORNIA	2360043-0	Operating Supplies, Sept '19	100-195-621000	341.03
09/19/2019	COMPLETE OFFICE OF CALIFORNIA	2360045-0	Operating Supplies, Sept '19	100-195-621000	215.48
09/19/2019	CANON SOLUTIONS AMERICA	4030304250	Copier Usage, Community Services, Aug '19	100-195-641200	289.86
09/19/2019	SPARKLETTES	4228482091319	Operating Supplies, Aug '19	100-195-622000	149.38
09/19/2019	BRINKS, INCORPORATED	4467755	Courier Fee, Armored Transport, Sept '19	100-155-625000	151.03
09/19/2019	ALL CITY MANAGEMENT, INC.	63153	Crossing Guard Services, 8/15/19-9/7/19	100-420-720822	4,468.96
09/19/2019	CORELOGIC INFORMATION SOLUTION, INC.	95122627	GIS Services, FY 19/20	100-195-720050	9,836.50
09/19/2019	PACIFIC SUN LEAGUE	FRD-0200	Refund, Facility Deposit R#1031264.002	100-000-222000	500.00
09/19/2019	GRACE LESHER	FRD-0201	Refund, Facility Deposit R#1033485.002	100-000-222000	250.00
09/19/2019	MONARREZ, ELIZABETH	FRD-0202	Refund, Facility Deposit R#1031970.002	100-000-222000	500.00
09/19/2019	TERAN, JUANITA	FRF-0010	Refund, Facility Rental, R#1032833.002	100-000-451100	100.00
09/19/2019	OCSO LAW ENFORCEMENT CONTRACT, OC TREASURER-TAX COLLECTOR	SH54078	SoCal Edison, Reimbursable Cost, Aug '19	100-000-120000	681.04
09/19/2019	FINGERPRINT ID (AFIS) LAW ENF. - COUNTY OF ORANGE	SH54091	Fingerprint ID System Charges, Sept '19	100-420-720835	1,503.00
09/26/2019	BC Traffic Specialist	0042195-IN	Street Maintenance, Sep '19	100-355-720400	120.87
09/26/2019	BEACH BUS BISTRO, LLC	053019	1/2 Marathon Expense	100-310-695507	230.00
09/26/2019	GRIEGO-SANDS, CINDY	092319	Mileage Reimbursement, Gen Gov, 7/3 - 9/23/19	100-155-613000	52.14
09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	100-155-612000	14.57
09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	100-155-620000	167.03
09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	100-155-622000	301.18
09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	100-155-646100	43.99
09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	100-155-695000	5.38

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09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	100-195-617000	12.97
09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	100-195-620000	48.23
09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	100-195-622000	131.15
09/26/2019	MCDONALD, KAYLE	092419	Mileage Reimbursement, Aug-Sep '19	100-310-613000	95.53
09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	100-355-611000	132.05
09/26/2019	SAN DIEGO GAS & ELECTRIC	092519	Street Lights, Traffic Control, Com Ctr, Aug '19	100-310-631100	6,925.96
09/26/2019	MOULTON NIGUEL WATER DISTRICT	092519	Water Usage, Public Services & Com Ctr, Aug '19	100-310-635100	499.57
09/26/2019	SAN DIEGO GAS & ELECTRIC	092519	Street Lights, Traffic Control, Com Ctr, Aug '19	100-355-631000	7,387.06
09/26/2019	SAN DIEGO GAS & ELECTRIC	092519	Street Lights, Traffic Control, Com Ctr, Aug '19	100-355-631400	12,184.15
09/26/2019	SAN DIEGO GAS & ELECTRIC	092519	Street Lights, Traffic Control, Com Ctr, Aug '19	100-355-631900	3,363.98
09/26/2019	MOULTON NIGUEL WATER DISTRICT	092519	Water Usage, Public Services & Com Ctr, Aug '19	100-355-635000	4,412.13
09/26/2019	DATA TICKET, INC.	104387	Process Fee, Parking Citations, Aug '19	100-420-720823	803.37
09/26/2019	BEE MAN, THE	105096	Bee Removal, Public Services, Aug '19	100-355-720701	155.00
09/26/2019	REAL ESTATE CONSULTING & SERVICES, INC.	12166	Parks Contract Repair, Sep '19	100-355-720701	400.00
09/26/2019	REAL ESTATE CONSULTING & SERVICES, INC.	12167	Parks Contract Repair, Sep '19	100-355-720701	481.05
09/26/2019	HR GREEN PACIFIC, INC.	129423	Building Services, Community Development, Jul '19	100-225-700000	16,720.00
09/26/2019	HR GREEN PACIFIC, INC.	129424	Plan Check, Community Development, Jul '19	100-225-700000	10,894.24
09/26/2019	AT&T - CALNET 3	13571201	Traffic Signal, Public Services, Aug '19	100-355-630000	21.34
09/26/2019	AT&T - CALNET 3	13583751	Alarm, Com Ctr & City Hall Lines, Sep '19	100-195-630000	139.14
09/26/2019	AT&T - CALNET 3	13583751	Alarm, Com Ctr & City Hall Lines, Sep '19	100-310-630100	82.12
09/26/2019	WEST COAST ARBORISTS, INC.	152036	Tree Trimming Services, Sep '19	100-355-720702	21,358.50
09/26/2019	JOE A. GONSALVES & SON	157702	Legislative Services, Oct '19	100-155-700020	2,900.00
09/26/2019	TOT LOT PROS	1602	Parks Contract Repair, Sep '19	100-355-720701	1,725.00
09/26/2019	DISTRICT ATTORNEY'S OFFICE	1939	Code Violations, Apr - Jun '19	100-420-720000	258.15
09/26/2019	COUNTY OF ORANGE PLANNING DIRECTORS ASSN OF OC	2019-02	Membership Dues & Expense	100-225-610000	125.00
09/26/2019	GREEN MART, INC.	33246	Operating Supplies, Public Services, Sep '19	100-355-622000	538.75
09/26/2019	LUCY, STEVEN	564	Program Expense, Com Svcs, 10/18/19	100-310-695502	500.00
09/26/2019	WOODRUFF, SPRADLIN & SMART	63531	Professional Services Legal, Aug '19	100-155-700010	11,499.93
09/26/2019	WOODRUFF, SPRADLIN & SMART	63531	Professional Services Legal, Aug '19	100-155-700011	1,670.35
09/26/2019	WOODRUFF, SPRADLIN & SMART	63531	Professional Services Legal, Aug '19	100-225-700012	2,574.00
09/26/2019	ANDERSON PENNA PARTNERS, INC.	7660	Inspection Services, Aug '19	100-355-700255	15,694.00
09/26/2019	A SOURCE OF PRIDE	9109494	Operating Supplies, Sep '19	100-195-622000	37.17
09/26/2019	AKC PERMIT COMPANY	CD-432-SDPA-8-18-4281	Refund, Permit Fees, R #1862	100-000-223000	357.41
09/26/2019	KELLEY FRANCHISE				
09/26/2019	SAKUT, STEVE & KERI	CD-433-RES-8-17-15360	Refund, C&D Deposit, R #470	100-000-227001	1,379.60
09/26/2019	BENITEZ, EDGAR	CD-434-BLDR-0023-2019	Refund, C&D Deposit, R	100-000-227001	1,500.00

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09/26/2019	HUNTER CONSTRUCTION CO.	CD-435-BLDR-0056-2019	Refund, C&D Deposit, R	100-000-227001	264.9
	C/O STU HUNTER				
09/26/2019	BIENEK, DAVID	CD-436-BLDR-0103-2019	Refund, C&D Deposit, R	100-000-227001	1,500.0
09/26/2019	BIENEK, DAVID	CD-437-BLDR-0097-2019	Refund, C&D Deposit, R	100-000-227001	2,100.0
09/26/2019	CHASTAW, TONY	CD-438-BLDC-0006-2019	Refund, C&D Deposit, R	100-000-227001	500.0
09/26/2019	SOLAR POWER SUPPLY	CD-439-BLDR-0125-2019	Refund, C&D Deposit, R	100-000-227001	270.0
09/26/2019	JIM MURRAY ROOFING INC.	CD-440-BLDR-0099-2019	Refund, C&D Deposit, R	100-000-227001	1,020.0
09/26/2019	JIM MURRAY ROOFING INC.	CD-441-BLDR-0086-2019	Refund, C&D Deposit, R	100-000-227001	1,320.0
09/26/2019	JIM MURRAY ROOFING INC.	CD-442-BLDR-0100-2019	Refund, C&D Deposit, R	100-000-227001	1,050.0
09/26/2019	REPIPE 1	CD-443-PL-4-19-18263	Refund, Permit Fees, R #3774	100-000-442000	147.0
09/26/2019	SERVICE ROOFING COMPANY	CD-444-BLDR-0080-2019	Refund, C&D Deposit, R	100-000-227001	1,200.0
09/26/2019	DONAHUE, JOHN	CD-445-BLDR-0064-2019	Refund, C&D Deposit, R	100-000-227001	100.0
09/26/2019	GUARDIAN ROOFS	CD-446-BLDR-0074-2019	Refund, C&D Deposit, R	100-000-227001	900.0
09/26/2019	PRICE, JILL LESLIE	CD-447-RES-5-19-18371	Refund, Permit Fees, R #3965	100-000-442000	195.4
09/26/2019	AMERISERVE	CD-448-PLMR-0098-2019	Refund, Permit Fees, R #5059	100-000-442000	147.0
09/26/2019	BIENEK, DAVID	CD-449-BLDR-0110-2019	Refund, C&D Deposit, R	100-000-227001	1,500.0
09/26/2019	REHM, JEFF	CD-450-BLDR-0087-2019	Refund, C&D Deposit, R	100-000-227001	750.0
09/26/2019	OFFICE SOLUTIONS	I-01643312	Office/Operating Supplies, Sep '19	100-195-620000	68.9
09/26/2019	OFFICE SOLUTIONS	I-01643312	Office/Operating Supplies, Sep '19	100-195-622000	28.5
09/26/2019	OFFICE SOLUTIONS	I-01643431	Office Supplies, Sep '19	100-195-620000	46.5
Fund 100 - GENERAL FUND Total:					1,283,269.1
Fund: 101 - FIVE LAGUNAS REDEVELOPMENT PROJECT					
09/19/2019	KOSMONT COMPANIES	1908.9001	Professional Services, Five Lagunas, Aug '19	101-225-700000	358.8
Fund 101 - FIVE LAGUNAS REDEVELOPMENT PROJECT Total:					358.8
Fund: 221 - SENIOR MOBILITY PROGRAM					
09/19/2019	CALIFORNIA YELLOW CAB	8406019	Senior Mobility Program, Aug '19	221-310-720000	1,218.0
Fund 221 - SENIOR MOBILITY PROGRAM Total:					1,218.0
Fund: 307 - C & D FORFEITED DEPOSITS					
09/12/2019	ECONOMICS, INC.	2017-2018.26	Professional Services, Recycling Program, Aug '19	307-355-700000	7,307.8
Fund 307 - C & D FORFEITED DEPOSITS Total:					7,307.8
Fund: 600 - CAPITAL IMPROVEMENT PROJECT					
09/05/2019	HARTZOG & CRABILL, INC.	19-0500	CIP #168 & Traffic Signal Mgmt Services, Jul '19	600-251-950168	172.5
09/26/2019	SANDS, CINDY	092419	Petty Cash Replenishment, Jul - Sep '19	600-254-950410	9.9
Fund 600 - CAPITAL IMPROVEMENT PROJECT Total:					182.4
Grand Total:					1,292,336.3

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Report Summary

Fund Summary

Fund	Expense Amount	Payment Amount
100 - GENERAL FUND	1,283,269.15	1,283,269.15
101 - FIVE LAGUNAS REDEVELOPMENT PROJECT	358.80	358.80
221 - SENIOR MOBILITY PROGRAM	1,218.00	1,218.00
307 - C & D FORFEITED DEPOSITS	7,307.86	7,307.86
600 - CAPITAL IMPROVEMENT PROJECT	182.49	182.49
Grand Total:	1,292,336.30	1,292,336.30

Account Summary

Account Number	Account Name	Expense Amount	Payment Amount
100-000-120000	Accounts Receivable	1,396.86	1,396.86
100-000-220500	Security Rental	343.00	343.00
100-000-221006	SIHTC B	516.12	516.12
100-000-222000	Refundable Deposits	2,000.00	2,000.00
100-000-223000	Plan Application Deposit	2,788.01	2,788.01
100-000-227001	SecurityDeposit-WasteRe	16,104.50	16,104.50
100-000-228001	Swimming Pool Bonds	1,000.00	1,000.00
100-000-442000	Building Related Permits	489.54	489.54
100-000-451100	Recreation Fees-Reservat	-320.00	(320.00)
100-000-451600	RecreationFees-5K Regist	9,051.00	9,051.00
100-155-610000	Memberships and Dues E	190.00	190.00
100-155-611000	Training and Education	480.00	480.00
100-155-612000	Travel, Conferences & Me	1,098.69	1,098.69
100-155-613000	Mileage Reimbursement	52.14	52.14
100-155-613100	Vehicle-Fuel	263.86	263.86
100-155-620000	Office Supplies	555.34	555.34
100-155-622000	Operating Supplies	487.05	487.05
100-155-624001	Advertising - Legal	606.00	606.00
100-155-625000	Postage & Delivery	151.03	151.03
100-155-626000	Subscriptions & Books	300.00	300.00
100-155-646100	Maint & Repairs - Vehicle	1,953.11	1,953.11
100-155-695000	CommunityAsstnc/Publicl	7,505.38	7,505.38
100-155-700010	Legal Services-General Co	11,499.93	11,499.93
100-155-700011	Legal Services-Litigation	2,404.19	2,404.19
100-155-700020	Professional Services - Le	2,900.00	2,900.00
100-155-700030	Professional Svcs- City Cle	75.00	75.00
100-195-611000	Training and Education	4,800.00	4,800.00
100-195-617000	Recruitment	636.33	636.33
100-195-620000	Office Supplies	401.31	401.31
100-195-621000	Computer Supplies	1,823.17	1,823.17
100-195-622000	Operating Supplies	583.86	583.86
100-195-623000	Printing	188.56	188.56
100-195-625000	Postage & Delivery	71.97	71.97
100-195-630000	Telephone & Communica	3,950.47	3,950.47
100-195-641200	Rent/Lease - Copier	1,466.95	1,466.95
100-195-647000	Maint & Repair - Comp Ec	71.09	71.09
100-195-720050	Contract Serv-Software St	13,849.50	13,849.50
100-195-940000	Computer Hardware & So	48,616.09	48,616.09
100-225-610000	Memberships and Dues E	125.00	125.00
100-225-611000	Training and Education	30.00	30.00
100-225-613100	Vehicle-Fuel	106.99	106.99
100-225-626000	Subscriptions & Books	238.00	238.00
100-225-646100	Maint & Repairs - Vehicle	62.09	62.09
100-225-700000	Prof. Svcs - Building & Saf	27,614.24	27,614.24
100-225-700012	Legal Services - Communi	2,574.00	2,574.00
100-310-610000	Memberships and Dues E	196.00	196.00
100-310-613000	Mileage Reimbursement	95.53	95.53
100-310-613100	Vehicle-Fuel	984.53	984.53

Attachment: Warrant Register Payables Detail Report - October 8, 2019 (1974 : Approval of Warrant Register for October 8, 2019)

Account Summary

Account Number	Account Name	Expense Amount	Payment Amount
100-310-620500	Office Supplies - Comm Cl	147.78	147.78
100-310-622005	Operating Supplies Comrr	325.89	325.89
100-310-622500	Supplies-Program Service	-14.77	(14.77)
100-310-622502	Supplies-Adult Leagues	496.51	496.51
100-310-630100	Phone & Communication	82.12	82.12
100-310-631100	Utilities - Electric Comm C	6,925.96	6,925.96
100-310-635100	Utilities - Water Comm Ct	1,041.14	1,041.14
100-310-690500	Insurance - Recreational C	570.00	570.00
100-310-695501	Day Camps & Build A Fort	4,123.56	4,123.56
100-310-695502	Special Needs Program	545.28	545.28
100-310-695505	Cultural Excursions	248.00	248.00
100-310-695506	Teen Camps & Programs	4,658.15	4,658.15
100-310-695507	Marathon 5k	3,754.99	3,754.99
100-310-721500	Contract Services-Prograr	7,079.80	7,079.80
100-310-930500	Furniture-Program Servic	2,423.85	2,423.85
100-355-611000	Training and Education	2,008.09	2,008.09
100-355-613000	Mileage Reimbursement	382.30	382.30
100-355-622000	Operating Supplies	601.74	601.74
100-355-630000	Telephone & Communica	21.34	21.34
100-355-631000	Utilities - Electric	7,695.58	7,695.58
100-355-631400	Electric-Street Lights/Sign	31,282.48	31,282.48
100-355-631900	UtilitiesElectricOnBillFinar	7,610.96	7,610.96
100-355-635000	Utilities - Water	47,995.98	47,995.98
100-355-700101	Traffic Engineer Services	5,052.73	5,052.73
100-355-700255	Improvement Inspection	15,694.00	15,694.00
100-355-720400	Street Maintenance	51,233.91	51,233.91
100-355-720410	Street Sweeping	12,016.27	12,016.27
100-355-720420	Traffic Signal Maintenan	13,447.75	13,447.75
100-355-720500	Graffiti Removal	4,839.00	4,839.00
100-355-720700	Landscape Maintenance C	90,859.00	90,859.00
100-355-720701	Parks Contract Repair	4,704.58	4,704.58
100-355-720702	Tree Maintenance	47,925.05	47,925.05
100-420-613100	Vehicle-Fuel	118.75	118.75
100-420-621000	Computer Supplies	410.62	410.62
100-420-622000	Operating Supplies	387.20	387.20
100-420-720000	Contract Services	258.15	258.15
100-420-720401	Animal Care & Shelter Ser	52,026.75	52,026.75
100-420-720800	General Law Enforcement	670,583.17	670,583.17
100-420-720822	Crossing Guard Services	4,468.96	4,468.96
100-420-720823	Parking Citation Processin	5,357.10	5,357.10
100-420-720835	Fingerprint Identification .	1,503.00	1,503.00
101-225-700000	Professional Services	358.80	358.80
221-310-720000	Contract Services	1,218.00	1,218.00
307-355-700000	Professional Services	7,307.86	7,307.86
600-251-950168	TrafficSignalImprovCoordi	172.50	172.50
600-254-950410	NPDES Permit & Fees	9.99	9.99
Grand Total:		1,292,336.30	1,292,336.30

Project Account Summary

Project Account Key	Expense Amount	Payment Amount
None	1,292,336.30	1,292,336.30
Grand Total:	1,292,336.30	1,292,336.30

Attachment: Warrant Register Payables Detail Report - October 8, 2019 (1974 : Approval of Warrant Register for October 8, 2019)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019
TO: Mayor and Council Members
FROM: Janice Reyes
Finance Director
ISSUE: Memorandum of Understanding with Special District Risk Management Authority (SDRMA)

RECOMMENDATION: That the City Council authorize the City Manager to execute the Memorandum of Understanding and adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, approving the form of and authorizing the execution of a Memorandum of Understanding and authorizing participation in the Special District Risk Management Authority's Health Benefits Program."

SUMMARY:

Currently, the City offers its employees health benefits coverage through the City's participation in the Special District Risk Management Authority (SDRMA) Small Group Health Benefits Program. At its June 26, 2019, SDRMA Board Meeting, the SDRMA Board of Directors established amendments to the Memorandum of Understanding (MOU) between SDRMA and its member agencies. These amendments were made to align the MOU with federal and CSAC-EIA pool guidelines. CSAC-EIA is the organization that delivers coverage for the SDRMA Health Benefits Program. In order to maintain the City's participation in the SDRMA Health Benefits Program, the City is required to adopt the proposed Resolution and execute the amended MOU, which are attached to this report. Any member agency that does not execute the amended MOU shall be withdrawn from the Program on the next annual renewal date. It is staff's recommendation that the City Council adopt the proposed Resolution and execute the MOU.

SDRMA Health Benefits Program Memorandum of Understanding

October 8, 2019

Page 2

BACKGROUND:

In May of 2011, the City Council authorized the participation in the California State Association of Counties – Excess Insurance Authority (CSAC-EIA) Medical Benefits Program and Health Benefits Ancillary Coverage as administered by the Special District Risk Management Authority (SDRMA), in order to save money and enter into an environment of composite rates instead of “age-banded” rates. Due to the low number of the City’s personnel, the purchase of health coverage directly from the carrier meant that the City was subject to “age-banded” rates, which charged higher premiums to older-aged participants. After investigating alternatives, staff found the only way to avoid an “age-banded” environment was to join a large group and it was determined the City’s participation in SDRMA Health Benefits Program provided the optimal cost savings with minimal change in coverage.

The CSAC EIA Health Program was created in 2003, for the purpose of providing its member agencies with a cost-effective alternative to healthcare coverage options by using the concept of pooling in order to reduce healthcare premiums. The pooling approach creates value and long-term stability by securing the lowest fixed costs possible from its carrier partners and combining similar risk profiles in a financially stable pool. The City is able to avail itself of these cost savings measures in conjunction with its participation in SDRMA.

Each participating member with SDRMA executed a MOU and Resolution upon joining SDRMA. Included in the MOU is the section entitled “Amendment of Memorandum”, which specified the MOU may be amended by the SDRMA Board of Directors and such amendments are subject to approval of the participating member. Any members who fail or refuse to execute an amendment to the MOU shall be deemed to have withdrawn from the Program on the next annual renewal date.

The SDRMA Board approved amendments to the MOU in June 2019 and subsequently issued written notification to its members in August 2019. A copy of the written letter is attached as Attachment 1 to this report. The amendments adopted by the SDRMA Board were made to align the MOU with federal and CSAC-EIA pool guidelines. A red-line version of the amendment to the MOU is attached to this report as Attachment 2. In order to meet the requirement, as set by SDRMA, the City must adopt the Resolution and execute the MOU before November 1, 2019. Staff recommends the City Council adopt the attached proposed Resolution and authorize the City Manager to execute the Memorandum of Understanding.

SDRMA Health Benefits Program Memorandum of Understanding

October 8, 2019

Page 3

ATTACHMENTS:

- Attachment 1 - SDRMA Letter
- Attachment 2 - Amended MOU, Redline Version
- Attachment 3 - Proposed Resolution to Approve MOU



1112 I Street, Suite 300
 Sacramento, California 95814-2865
 T 916.231.4141 or 800.537.7790 • F 916.231.4111

Maximizing Protection. Minimizing Risk. • www.sdrma.org

August 1, 2019

Ms. Janice Mateo-Reyes
 Finance Director
 City of Laguna Hills
 24035 El Toro Road
 Laguna Hills, California 92653

Amended Memorandum of Understanding

Dear Ms. Mateo-Reyes,

At the June 26, 2019 SDRMA Board Meeting, the SDRMA Board of Directors approved amendments to the Memorandum of Understanding (MOU) between your agency and SDRMA. The amendments were made to align the MOU with IRS guidelines, the Affordable Care Act and the CSAC-EIA pool guidelines. CSAC-EIA is the organization that provides coverage for the Health Benefits program.

Your entity participates in SDRMA's Health Benefits program and has previously executed the Memorandum of Understanding (MOU) and Resolution when your entity joined SDRMA's Health Benefits program. Included in the MOU is the following section: AMENDMENT OF MEMORANDUM. This MEMORANDUM may be amended by the SDRMA Board of Directors and such amendments are subject to approval of ENTITY's designated representative, or alternate, who shall have authority to execute this MEMORANDUM. Any ENTITY who fails or refuses to execute an amendment to this MEMORANDUM shall be deemed to have withdrawn from the PROGRAM on the next annual renewal date.

To follow the above MOU guideline your governing body must execute the enclosed MOU and Resolution and return the original MOU and Resolution to SDRMA by **November 1, 2019**. If your entity does not return the MOU and Resolution to SDRMA by **November 1, 2019** your entity will be deemed as withdrawn and benefits will be terminated effective **January 1, 2020**.

If SDRMA has not received your entity's MOU and Resolution by October 1, 2019 we will send an email to your attention inquiring when the MOU and Resolution will be sent to SDRMA.

In the MOU under section 4 it refers to SDRMA Program Administrative Guidelines. The Administrative Guidelines can be found on the SDRMA MemberPlus Portal at www.sdrma.org. If you are already registered on the MemberPlus Portal you do not need to re-register. If you are not already registered on the MemberPlus Portal, please find enclosed instructions of how to register. Once you are registered and login, the Administrative Guidelines can be found under the following pathway: Document Library>Health Benefits>Administrative Guidelines.

Please contact us at 800.537.7790 or at healthbenefits@sdрма.org if you have any questions regarding the MOU and/or Resolution. Thank you for your continued participation in the Health Benefits Program!

Attachment: Attachment 1 - SDRMA Letter (1943 : SDRMA Health Benefits Program Memorandum of Understanding)



1112 I Street, Suite 300
Sacramento, California 95814-2865
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Sincerely,
Special District Risk Management Authority

Alana Little
Health Benefits Manager

Enclosures: Memorandum of Understanding
Resolution
MemberPlus Registration instructions
Return Address Envelope

Attachment: Attachment 1 - SDRMA Letter (1943 : SDRMA Health Benefits Program Memorandum of Understanding)



MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (HEREAFTER "MEMORANDUM") IS ENTERED INTO BY AND BETWEEN THE SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY (HEREAFTER "SDRMA") AND THE PARTICIPATING PUBLIC ENTITY (HEREAFTER "ENTITY") WHO IS SIGNATORY TO THIS MEMORANDUM.

WHEREAS, on August 1, 2006, SDRMA was appointed administrator for the purpose of enrolling small public entities ~~typically having 250 or less employees~~ into the CSAC - Excess Insurance Authority Health's ("CSAC-EIA Health") Small Group Health Benefits Program (hereinafter "PROGRAM"); and

WHEREAS, the terms and conditions of the PROGRAM as well as benefit coverage, rates, assessments, and premiums are governed by CSAC-EIA Health Committee for the PROGRAM (the "COMMITTEE") and not SDRMA; and.

WHEREAS, ENTITY desires to enroll and participate in the PROGRAM.

NOW THEREFORE, SDRMA and ENTITY agree as follows:

1. **PURPOSE.** ENTITY is signatory to this MEMORANDUM for the express purpose of enrolling in the PROGRAM.
2. **ENTRY INTO PROGRAM.** ENTITY shall enroll in the PROGRAM by making application through SDRMA which shall be subject to approval by the PROGRAM's Underwriter and governing documents and in accordance with applicable eligibility guidelines.
3. **MAINTENANCE OF EFFORT.** PROGRAM is designed to provide an alternative health benefit solution to all participants of the ENTITY including active employees, retired employees (optional), dependents (optional) and public officials (optional). ENTITY public officials may participate in the PROGRAM only if they are currently being covered and their own ENTITY's enabling act, plans and policies allow it. ENTITY must contribute at least the minimum percentage required by the eligibility requirements
4. **PREMIUMS.** ENTITY understands that premiums and rates for the PROGRAM are set by the COMMITTEE. ENTITY will remit monthly premiums based upon rates established for each category of participants and the census of covered employees, public officials, dependents and retirees.

Rates for the ENTITY and each category of participant will be determined by the COMMITTEE designated for the PROGRAM based upon advice from its consultants



and/or a consulting Benefits Actuary and insurance carriers. In addition, SDRMA adds an administrative fee to premiums and rates ~~set by the COMMITTEE~~ for costs associated with administering the PROGRAM. Rates may vary depending upon factors including, but not limited to, demographic characteristics, loss experience of all public entities participating in the PROGRAM and differences in benefits provided (plan design), if any.

~~a. SDRMA will administrate a billing to ENTITY each month, with payments due by the date specified by SDRMA. Payments received after the specified date will accrue penalties up to and including termination from the PROGRAM. Medical benefit premiums are based on a full month, and there are no partial months or prorated premiums. Enrollment for mid-year qualifying events and termination of coverage will be made in accordance with the~~

~~ENTITY must send notification of termination of benefits for a covered employee to the PROGRAM and SDRMA prior to the effective date of termination. If termination is requested after the effective date of termination, the enrollment will terminate at the end of the month the termination request was provided. No rescission of coverage will be allowed without proper approvals. For information pertaining to termination of coverage and mid-year qualifying events refer to the SDRMA Program Administrative Guidelines.~~

5. BENEFITS. Benefits provided to ENTITY participants shall be as set forth in ENTITY's Plan Summary for the PROGRAM and as agreed upon between the ENTITY and its recognized employee organizations as applicable. Not all plan offerings will be available to ENTITY, and plans requested by ENTITY must be submitted to PROGRAM underwriter for approval.
6. COVERAGE DOCUMENTS. Except as otherwise provided herein, ~~CSAC-EIA Health coverage documents from each carrier~~ outlining the coverage provided, including terms and conditions of coverage, are controlling with respect to the coverage of the PROGRAM and will be provided by SDRMA to each ENTITY ~~by SDRMA. SDRMA will provide each ENTITY with a~~Additional documentation, defined as the "Administrative Guidelines," which provides further details on administration of the PROGRAM. ~~will be provided to each ENTITY by SDRMA.~~
7. PROGRAM FUNDING. It is the intent of this MEMORANDUM to provide for a fully funded PROGRAM by any or all of the following: pooling risk; purchasing individual stop loss coverage to protect the pool from large claims; and purchasing aggregate stop loss coverage.
8. ASSESSMENTS. Should the PROGRAM not be adequately funded for any reason, pro-rata assessments to the ENTITY may be utilized to ensure the approved funding level for



applicable policy periods. Any assessments which are deemed necessary to ensure approved funding levels shall be made upon the determination and approval of the COMMITTEE in accordance with the following:

- a. Assessments/dividends will be used sparingly. Generally, any over/under funding will be factored into renewal rates.
 - b. If a dividend/assessment is declared, allocation will be based upon each ENTITY's proportional share of total premiums paid for the preceding 3 years. An ENTITY must be a current participant to receive a dividend, except upon termination of the PROGRAM and distribution of assets.
 - c. ENTITY will be liable for assessments for 12 months following withdrawal from the PROGRAM.
 - d. Fund equity will be evaluated on a total PROGRAM-wide basis as opposed to each year standing on its own.
9. WITHDRAWAL. ENTITY may withdraw subject to the following condition: ENTITY shall notify SDRMA and the PROGRAM in writing of its intent to withdraw at least 90 days prior to their ~~the~~ requested withdrawal date. ENTITY may rescind its notice of intent to withdraw. Once ENTITY withdraws from the PROGRAM, there is a 3-year waiting period to come back into the PROGRAM, and the ENTITY will be subject to underwriting approval again.
 10. LIAISON WITH SDRMA. Each ENTITY shall maintain staff to act as liaison with ~~the~~ SDRMA and between the ENTITY and ~~the~~ SDRMA's designated PROGRAM representative.
 11. GOVERNING LAW. This MEMORANDUM shall be governed in accordance with the laws of the State of California.
 12. VENUE. Venue for any dispute or enforcement shall be in Sacramento, California.
 13. ATTORNEY FEES. The prevailing party in any dispute shall be entitled to an award of reasonable attorney fees.
 14. COMPLETE AGREEMENT. This MEMORANDUM together with the related PROGRAM documents constitutes the full and complete agreement of the ENTITY.
 15. SEVERABILITY. Should any provision of this MEMORANDUM be judicially determined to be void or unenforceable, such determination shall not affect any remaining provision.



16. AMENDMENT OF MEMORANDUM. This MEMORANDUM may be amended by the SDRMA Board of Directors and such amendments are subject to approval of ENTITY's ~~signatory~~ designated representative, or alternate, who shall have authority to execute ~~to~~ this MEMORANDUM. Any ENTITY who fails or refuses to execute an amendment to this MEMORANDUM shall be deemed to have withdrawn from the PROGRAM on the next annual renewal date.
17. EFFECTIVE DATE. This MEMORANDUM shall become effective on the later of the first date of coverage for the ENTITY or the date of signing ~~upon the signing~~ of this MEMORANDUM by the ~~ENTITY and~~ Chief Executive Officer or Board President of SDRMA.
18. EXECUTION IN COUNTERPARTS. This MEMORANDUM may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

In Witness Whereof, the undersigned have executed the MEMORANDUM as of the date set forth below.

Dated: _____

By: _____

Special District Risk
Management Authority

Dated: _____

By: _____

[Insert Name of Public Entity]

RESOLUTION NO. 2019-10-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING AND AUTHORIZING PARTICIPATION IN THE SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY'S HEALTH BENEFITS PROGRAM

WHEREAS, the City of Laguna Hills, a public agency duly organized and existing under and by virtue of the laws of the State of California (the "CITY"), has determined that it is in the best interest and to the advantage of the CITY to participate in the Health Benefits Program offered by Special District Risk Management Authority (the "Authority"); and

WHEREAS, the Authority was formed in 1986 in accordance with the provisions of California Government Code 6500 et seq., for the purpose of providing risk financing, risk management programs and other coverage protection programs; and

WHEREAS, participation in Authority programs requires the CITY to execute and enter into a Memorandum of Understanding which states the purpose and participation requirements for the Health Benefits Program; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the CITY is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided.

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

Section 1. Findings. The City Council of the City of Laguna Hills hereby specifically finds and determines that the actions authorized hereby relate to the public affairs of the CITY.

Section 2. Memorandum of Understanding. The Memorandum of Understanding, to be executed and entered into by and between the CITY and the Authority, in the form presented at this meeting and on file with the City Clerk, is hereby approved. The City Council and/or the City Manager is hereby authorized and directed, for and in the name and on behalf of the CITY, to execute and deliver to the Authority the Memorandum of Understanding.

Section 3. Program Participation. The City Council approves participating in the Special District Risk Management Authority's Health Benefits Program.

Section 4. Other Actions. The City Manager is hereby authorized and directed to execute and deliver any and all documents which are necessary in order to consummate the transactions authorized hereby and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 5. Effective Date. This Resolution shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED this 8th day of October 2019.

DON SEDGWICK, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

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

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2019-10-08-X adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 8th day of October 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019
TO: Mayor and Council Members
FROM: Donald J. White
City Manager
ISSUE: Amendment to the Joint Powers Agreement with the Exclusive Risk Management Authority of California

RECOMMENDATION: That the City Council adopt a Resolution entitled: “A Resolution of the City Council of the City of Laguna Hills, California, approving amendments to the Exclusive Risk Management Authority of California Joint Powers Agreement”.

SUMMARY:

In 2003, the Exclusive Risk Management Authority of California (“ERMAC”) was founded as a joint powers authority for the purpose of providing risk-sharing and risk-transfer municipal liability protection to California governmental agencies. The ERMAC membership currently includes the City of Laguna Hills along with the Cities of Beaumont, Hayward, and Santa Maria. To qualify for the accreditation program of the California Association of Joint Powers Authority (“CAJPA”), the ERMAC Board of Directors (“Board”) recently approved amendments to the Joint Powers Agreement (“Agreement”). The amendments were prepared by the general counsel of the Board, and staff recommends that the City Council adopt the attached Resolution approving amendments to the Agreement.

BACKGROUND:

The Board and its member agencies adopted the Agreement on June 27, 2003, for the purpose of providing general liability insurance to its members. As a member of ERMAC, the City of Laguna Hills receives high-value general liability and property insurance coverages for municipal operations. Coverages generally are \$50 million for tort and

Amendments to the ERMAC Joint Powers Agreement

October 8, 2019

Page 2

injury losses, and \$1 billion for property losses. Additional coverages include employment practices liability, crime, and earthquake.

Since 2003, the Agreement was twice amended by Resolution to change the name of the Authority and to add Section 15 related to contractual liability of member agencies. Recently, the Board determined that it would be in the best interest of ERMAC to begin the accreditation process with CAJPA. The CAJPA accreditation designation involves a detailed examination of ERMAC's legal and operational documents, risk management, loss control and claims programs and statutory compliance. In light of these standards, the Board's general counsel reviewed and developed numerous amendments to the Agreement, which were recently adopted by the Board. To become effective, the City Council of each member agency must also approve the same amendments by Resolution. For ease of reference, the amendments to the Agreement are highlighted below and in a redline version attached to this staff report:

1. Add to Section 3, Purpose of the Agreement: Common Exercise of Powers, the following sentence as a new paragraph at the end: "New members may be admitted to the Authority upon approval by a two-thirds or higher vote of the Board of Directors. Eligibility is limited to California public agencies."
2. Add to Section 4, Powers, "(H) To appoint a Treasurer pursuant to Government Code section 6505.6. Per that section, the Treasurer shall cause an annual audit to be conducted."
3. Replace Section 5, Termination, "giving of thirty (30) days written notice to the primary officer of the authority" with "giving of written notice to the primary officer of the Authority of provisional termination by December 31 and final notice of termination by March 31."
4. Add to Section 6, Board of Directors, the following sentence as a new paragraph at the end: "At least one regular meeting shall be held each program year."
5. Add as a new Section 16: "Member Agency Responsibilities. The member Agencies shall have the following responsibilities:
 - A. to cooperate fully with the Authority in determining the cause of losses and in the settlement of claims, as defined in the Memorandum of Coverage;

Amendments to the ERMAC Joint Powers Agreement

October 8, 2019

Page 3

-
- B. to pay cash contributions, cash assessments and other charges, promptly to the Authority when due;
 - C. to provide the Authority with such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement;
 - D. to establish and maintain risk management programs including but not limited to loss control, risk transfer and employee safety programs;
 - E. to cooperate with and assist the Authority and any insurer, claims adjuster or legal counsel retained by the Authority, in all matters relating to this Agreement;
 - F. to comply with the Bylaws and all policies and procedures adopted by the Board; and,
 - G. to appoint a representative and alternate to the Board of Directors.”
6. Add as a new Section 17: “Assessments and Surplus Distributions. The Board by two-thirds vote shall have the authority to levy an assessment on member Agencies upon a determination that it is necessary to meet the Authority’s obligations. The assessment shall be *pro rata* in accordance with the respective initial premiums paid by members for the program year(s) giving rise to the deficit position. The Board by two-thirds vote shall have the authority to declare a distribution of surplus funds to current members upon a determination that surplus funds are available for distribution. Such distribution shall be *pro rata* in accordance with the respective initial premiums paid by current member Agencies for the program year(s) giving rise to the surplus position.”
 7. Add as a new Section 18: “Expulsion. The Board, by a two-thirds vote, may expel any member Agency from membership, effective at the end of the program year in which notice is given; such Agency shall have all the duties of a member that had voluntarily withdrawn.”
 8. Add as new Section 19: “Withdrawal. Withdrawal of any member Agency under Section 5 shall not terminate its responsibility:
 - A. to cooperate fully with the Authority in determining the cause of losses and in the defense of covered claims;

Amendments to the ERMAC Joint Powers Agreement

October 8, 2019

Page 4

-
- B. to pay assessments due and payable for program years in which the member Agency participated;
 - C. to provide such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement; and
 - D. to cooperate and assist the Authority and any insurer, claims adjustor, or legal counsel retained by the Authority, in all matters relating to this Agreement. Coverage in all program years which the member Agency participated will remain in effect and continue until the conclusion of their respective program years.”
9. Add as a new Section 20: “Termination and Distribution. This Agreement may be terminated at any time by the written consent of all member Agencies, or when due to withdrawals or expulsions, less than two member Agencies remain. Provided, however, that this Agreement shall continue in force for the purpose of disposing of all claims and all other functions necessary to wind up the affairs of the Authority. Upon termination of this Agreement, after resolution of claims, all assets of the Authority shall be distributed among past or present members of the Authority *pro rata* in proportion to the contributions made.”

It is important to note that there is no fiscal impact to the City associated with CAJPA’s accreditation process or with adopting the attached Resolution. Staff recommends that the City Council adopt the Resolution amending the Agreement.

ATTACHMENTS:

- Resolution
- Redline Version of the Joint Powers Agreement

RESOLUTION NO. 2019-10-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA HILLS, CALIFORNIA, APPROVING
AMENDMENTS TO THE EXCLUSIVE RISK MANAGEMENT
AUTHORITY OF CALIFORNIA JOINT POWERS
AGREEMENT

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

WHEREAS, the City is a member of the Exclusive Risk Management Authority of California (ERMAC), a self-insured joint powers authority created for the purpose of providing liability protection to California Governmental Agencies; and

WHEREAS, the Board of Directors and the member agencies of ERMAC have adopted and approved a Joint Powers Agreement dated June 27, 2003; subsequently amended by Resolution 2004-01 to change the name of the Authority; and subsequently amended by Resolution 2004-02 to add Section 15 relating to contractual liability of agencies; and

WHEREAS, the ERMAC Board of Directors have deemed it to be in the best interests of ERMAC that the Joint Powers Agreement be further amended; and

WHEREAS, amendments to the Joint Powers Agreement require consent of member agencies; and

WHEREAS, the City has reviewed the amendments and agrees upon adoption of this Resolution to be bound by the terms of the Amended Joint Powers Agreement;

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

SECTION 1. Add to Section 3, Purpose of the Agreement: Common Exercise of Powers the following sentence as a new paragraph at the end: "New members may be admitted to the Authority upon approval by a two-thirds or higher vote of the Board of Directors. Eligibility is limited to California public agencies."

SECTION 2. Add to Section 4, Powers, "(H) To appoint a Treasurer pursuant to Government Code section 6505.6. Per that section, the Treasurer shall cause an annual audit to be conducted."

SECTION 3. Add to Section 5, Termination, "giving of thirty (30) days written notice to the primary officer of the authority" with "giving of written notice to the primary

officer of the Authority of provisional termination by December 31 and final notice of termination by March 31.”

SECTION 4. Add to Section 6, Board of Directors the following sentence as a new paragraph at the end: “At least one regular meeting shall be held each program year.”

1. Add as new Section 16: “Member Agency Responsibilities. The member Agencies shall have the following responsibilities:
 - A. to cooperate fully with the Authority in determining the cause of losses and in the settlement of claims, as defined in the Memorandum of Coverage;
 - B. to pay cash contributions, cash assessments and other charges, promptly to the Authority when due;
 - C. to provide the Authority with such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement;
 - D. to establish and maintain risk management programs including but not limited to loss control, risk transfer and employee safety programs;
 - E. to cooperate with and assist the Authority and any insurer, claims adjuster or legal counsel retained by the Authority, in all matters relating to this Agreement;
 - F. to comply with the Bylaws and all policies and procedures adopted by the Board; and,
 - G. to appoint a representative and alternate to the Board of Directors.”

SECTION 5. Add as new Section 17: “Assessments and Surplus Distributions. The Board by two-thirds vote shall have the authority to levy an assessment on member Agencies upon a determination that it is necessary to meet the Authority’s obligations. The assessment shall be *pro rata* in accordance with the respective initial premiums paid by members for the program year(s) giving rise to the deficit position. The Board by two-thirds vote shall have the authority to declare a distribution of surplus funds to current members upon a determination that surplus funds are available for distribution. Such distribution shall be *pro rata* in accordance with the respective initial premiums paid by current member Agencies for the program year(s) giving rise to the surplus position.”

SECTION 6. Add as new Section 18: “Expulsion. The Board, by a two-thirds vote, may expel any member Agency from membership, effective at the end of the program year in which notice is given; such Agency shall have all the duties of a member that had voluntarily withdrawn.”

SECTION 7. Add as new Section 19: “Withdrawal. Withdrawal of any member Agency under Section 5 shall not terminate its responsibility:

- A. to cooperate fully with the Authority in determining the cause of losses and in the defense of covered claims;
- B. to pay assessments due and payable for program years in which the

- member Agency participated;
- C. to provide such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement; and
 - D. to cooperate and assist the Authority and any insurer, claims adjustor, or legal counsel retained by the Authority, in all matters relating to this Agreement. Coverage in all program years which the member Agency participated will remain in effect and continue until the conclusion of their respective program years.”

SECTION 8. Add as new Section 20: “Termination and Distribution. This Agreement may be terminated at any time by the written consent of all member Agencies, or when due to withdrawals or expulsions, less than two member Agencies remain. Provided, however, that this Agreement shall continue in force for the purpose of disposing of all claims and all other functions necessary to wind up the affairs of the Authority. Upon termination of this Agreement, after resolution of claims, all assets of the Authority shall be distributed among past or present members of the Authority *pro rata* in proportion to the contributions made.”

PASSED, APPROVED, AND ADOPTED this 8th day of October 2019.

DON SEDGWICK, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

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

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2019-10-08-X adopted by the City Council of the City of Laguna Hills, California, at a
Regular Meeting thereof held on the 8th day of October 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: Resolution (1969 : Amendments to the ERMAC Joint Powers Agreement)

**JOINT EXERCISE OF POWERS AGREEMENT
CREATING THE
CALIFORNIA RISK MANAGEMENT AUTHORITY**

This Agreement is made and entered into as of the 24th day of June 2003, by and between the Agencies that are parties to the Agreement.

RECITALS

A. Article 1, Chapter 5, Division 7, Title 1 of the California Government Code (section 6500 et seq.) permits two or more public agencies by Agreement to exercise jointly powers common to the contracting parties.

B. The public agencies executing this Agreement desire to join together for the purpose of jointly funding, purchasing and/or establishing insurance and risk management programs as determined.

C. Article 16, Section 6 of the California Constitution provides that insurance pooling arrangements under joint exercise of power Agreements shall not be considered the giving or lending of credit as prohibited therein.

D. California Government Code Section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, or purchase insurance through a surplus line broker, or any combination of these.

E. California Government Code Section 990.6 provides that the cost of insurance is a proper charge against the local public entity.

F. California Government Code Section 990.8 provides that two or more local public entities by a joint powers Agreement may provide insurance by any one or more of the methods specified in Government Code Section 990.4, and the pooling of self-insured claims losses is not considered insurance nor subject to regulation under the Insurance Code.

G. California Government Code Section 990.8 also provides that a joint powers Agreement may provide that if any peril insured or covered under a contract has existed and the joint powers authority or other parties participating in the pool have been liable for any period, the Agreement may provide that the insured or covered agency is not entitled to the return of premiums, contributions, payments, or advances so far as the particular risk insured or covered is concerned.

In consideration of the mutual promises and covenants contained in this Agreement, the parties agree as follows:

PURPOSE AND POWERS

1. Authority Created.

This Authority is created pursuant to Government Code section 6502. This Agreement shall become effective, and the Authority shall be authorized to exercise the powers provided in this Agreement, when executed by at least two (2) of the Agencies. The primary officer of the Authority shall promptly notify all member Agencies in writing of the effective date of this Agreement. This Agreement shall remain in effect until terminated as provided herein. This Agreement does not create a separate entity (as permitted by Government Code section 6503.5).

2. Authority Name.

The Authority shall be known as the Exclusive Risk Management Authority of California.

3. Purpose of the Agreement: Common Exercise of Powers.

The Agencies enter into this Agreement in order to jointly develop and fund insurance and other related programs as determined by the Agencies wishing to participate in such programs or obtain services. Programs may include, but are not limited to, the creation of joint insurance funds, including excess insurance funds, the pooling of self-insured claims and losses, purchase of insurance, including reinsurance, and the provision of necessary administrative and other services. Such services may include, but shall not be limited to, risk management consulting, loss prevention and control, centralized loss reporting, actuarial consulting, claims adjusting and legal defense services. New members may be admitted to the Authority upon approval by a two-thirds or higher vote of the Board of Directors. Eligibility is limited to California public agencies.

4. Powers.

The Authority has, and the Agencies delegate to the Authority, all powers reasonably necessary or prudent to perform and provide the services as generally described in Section 3 of this Agreement. In the exercise of the powers as provided in this agreement, the Authority shall conduct its business and perform its services in the same manner as a general law city. The agencies acknowledge that the powers delegated to the Authority are common to the Agencies. This delegation of powers includes, but is not limited to, the following:

(A) To make and enter into contracts.

(B) To employ agents and employees.

(C). To incur debts, liabilities, and obligations.

(D). To acquire, hold, or dispose of property, contributions and donations of property, funds, services and other forms of assistance from persons, firms, corporations and public agencies.

(E). To receive and use contributions and advances from members as provided in Government Code Section 6504, including contributions or advances of personnel, equipment or property.

(F). To invest any money in its treasury that is not required for its immediate necessities, pursuant to Government Code Section 6509.5.

(G). To carry out all provisions of this Agreement.

~~(G).~~ (H). To appoint a Treasurer pursuant to Government Code section 6505.6. Per that section, the Treasurer shall cause an annual audit to be conducted.

The delegated powers shall be exercised pursuant to the terms of this Agreement and in the manner provided by law.

5. Termination.

Each agency can terminate this Agreement upon the giving of written notice to the primary officer of the Authority of provisional termination by December 31 and final notice of termination by March 31~~thirty (30) days- written notice to the primary officer of the Authority~~ prior to the renewal date of the Agency's Memorandum of Coverage.

6. Board of Directors.

The governing body of each Agency shall appoint one person to serve as a member of the Board of Directors of the Authority. The Board of Directors shall have the authority to act on behalf of the Authority and all actions shall be approved by a majority of the members of the Board of Directors. The Board of Directors shall conduct meetings and operate in accordance with bylaws it shall create. At least one regular meeting shall be held each program year.

7. Limitations on Returns of Premiums.

Consistent with the provisions of California Government Code Section 990.8, each Agency shall not be entitled to the return of premiums, contributions, payments, or advances if any peril insured or covered under a

contract has existed and the Authority or other parties participating in this Authority have been liable for any period, so far as the particular risk insured or covered is concerned.

8. Notices.

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any party to this Agreement shall be in writing and shall be deemed duly served and given when personally delivered or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid to each party to this Agreement at the primary business location of that agency.

9. Severability.

Should any provision of this Agreement be held by a court of competent jurisdiction or by a legislative or rule making act to be either invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, unimpaired by the holding, legislation or rule.

10. Sole and Entire Agreement.

This Agreement constitutes the sole and entire Agreement between the agencies with respect to the subject matter hereof. This Agreement correctly set forth the obligations of the parties hereto to each other as of the date of this Agreement. All agreements or representations respecting the subject matter of this Agreement not expressly set forth or referred to in this Agreement are null and void.

11. Due Authority.

The agencies hereby represent that the individuals executing this Agreement are expressly authorized to do so on and in behalf of the agencies.

12. Construction.

The agencies agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

13. Amendments.

Amendments to this Agreement shall be made only with the

mutual written consent of both of the agencies to this Agreement.

14. Indemnification and Hold Harmless.

Each agency herein agrees to save free and hold harmless the other agencies, their elected officers, employees, volunteers and agents for any claim, damage, or liability in connection the joint exercise of common powers described herein.

15. Contractual Liability of Agencies.

Pursuant to California Government Code §6508.1, the Agencies agree that the Authority is not one or more of the parties to this Agreement but is a board constituted to administer the agreement and the debts, liabilities, and obligations of the Authority shall not be the debts, liabilities, and obligations of the individual Agencies that are parties to this Agreement.

Furthermore, neither the Authority nor the Authority's Board of Directors shall have the power or the authority to bind the Agencies to any debt, liability, contract, or obligation, or to employ any person on behalf of the Agencies; no debt, liability, contract, obligation, employee, or agent of the Authority or the Board of Directors of the Authority shall be or constitute thereby a debt, liability, contract, obligation, employee, or agent of the Agencies or any of them.

16. Member Agency Responsibilities.

The member Agencies shall have the following responsibilities:

- A. to cooperate fully with the Authority in determining the cause of losses and in the settlement of claims, as defined in the Memorandum of Coverage;
- B. to pay cash contributions, cash assessments and other charges, promptly to the Authority when due;
- C. to provide the Authority with such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement;
- D. to establish and maintain risk management programs including but not limited to loss control, risk transfer and employee safety programs;
- E. to cooperate with and assist the Authority and any insurer, claims adjuster or legal counsel retained by the Authority, in all matters relating to this Agreement;
- F. to comply with the Bylaws and all policies and procedures adopted by the Board; and,

G. to appoint a representative and alternate to the Board of Directors.

17. Assessments and Surplus Distributions.

The Board by two-thirds vote shall have the authority to levy an assessment on member Agencies upon a determination that it is necessary to meet the Authority's obligations. The assessment shall be *pro rata* in accordance with the respective initial premiums paid by members for the program year(s) giving rise to the deficit position. The Board by two-thirds vote shall have the authority to declare a distribution of surplus funds to current members upon a determination that surplus funds are available for distribution. Such distribution shall be *pro rata* in accordance with the respective initial premiums paid by current member Agencies for the program year(s) giving rise to the surplus position. Withdrawn members are not eligible for surplus distributions.

18. Expulsion.

The Board, by a two-thirds vote, may expel any member Agency from membership, effective at the end of the program year in which notice is given; such Agency shall have all the duties of a member that had voluntarily withdrawn.

19. Withdrawal.

Withdrawal of any member Agency under Section 5 shall not terminate its responsibility:

A. to cooperate fully with the Authority in determining the cause of losses and in the defense of covered claims;

B. to pay assessments due and payable for program years in which the member Agency participated;

C. to provide such statistical and loss experience data and other information as may be necessary for the Authority to carry out the purposes of this Agreement; and

D. to cooperate and assist the Authority and any insurer, claims adjustor, or legal counsel retained by the Authority, in all matters relating to this Agreement. Coverage in all program years in which the member Agency participated will remain in effect and continue unless and until their respective program year(s) are closed to further claims by a two-thirds vote of the Board.

20: Termination and Distribution. This Agreement may be terminated at any time by the written consent of all member Agencies, or when due to withdrawals or expulsions, less than two member Agencies remain. Provided, however, that this Agreement shall continue in force for the purpose of disposing of all claims and all other functions necessary to wind up the affairs of the Authority. Upon termination of this Agreement, after resolution of claims, all assets of the Authority shall be distributed among past or present members of the Authority *pro rata* in proportion to the contributions made.

Executed pursuant to X City Council Resolution No. 03-098 this ___ day
of ___ at City, California.

By:

Attest:



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Proposed Office Lease for Suite 320 with Dayle McIntosh Center for the Disabled, Inc., for 24031 El Toro Road, Suite 320, Laguna Hills, California

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

SUMMARY:

Staff has negotiated a five-year lease renewal with Dayle McIntosh Center for the Disabled, Inc., a California corporation, for 24031 El Toro Road, Suite 320. Dayle McIntosh Center for the Disabled, Inc., has been a tenant in the Civic Center since 2012. The following is a summary of the key lease terms and financial analysis:

Commencement Date: September 1, 2019

Term: Five (5) years

Rentable Square Feet: 1,218

Upfront Capital: \$20,388

Rate:

- Year 1 - \$2.20/ sq. ft.
- Year 2 - \$2.29/ sq. ft.
- Year 3 - \$2.38/ sq. ft.
- Year 4 - \$2.47/ sq. ft.
- Year 5 - \$2.57/ sq. ft.

Proposed Civic Center Lease with Dayle McIntosh Center for the Disabled, Inc., for Suite 320

October 8, 2019

Page 2

Total Rent Payments: \$174,163

Net Present Value: \$82,561 (12% Discount Rate)

The final lease has been included as an attachment and staff is recommending approval.

FISCAL IMPACT:

The lease has a positive net present value and requires upfront capital of \$20,388.

ATTACHMENTS:

- Proposed Lease



STANDARD MULTI-TENANT OFFICE LEASE - GROSS

1. Basic Provisions ("Basic Provisions").

1.1 **Parties.** This Lease ("Lease"), dated for reference purposes only October 8, 2019, is made by and between The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California ("Lessor") and Dayle McIntosh Center for the Disabled Inc., a California Corporation ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain Portion of the Project (as defined below), commonly known as (street address, suite, city, state): 24031 El Toro Road, Suite 320 Laguna Hills, CA 92654 ("Premises"). The Premises are located in the County of Orange, and consist of approximately 1,218 rentable square feet and approximately 1,018 useable square feet. 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:** 4/1000sf 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:** 5 years and 0 months ("Original Term") commencing September 1, 2019 ("Commencement Date") and ending August 31, 2024 ("Expiration Date"). (See also Paragraph 3)

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

1.5 **Base Rent:** \$2,679.60 per month ("Base Rent"), payable on the First day of each month commencing September 1, 2019. (See also Paragraph 4)

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

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

1.7 Base Rent and Other Monies Paid Upon Execution:

(a) **Base Rent:** \$2,679.60 for the period September 1-30, 2019.

(b) **Security Deposit:** 2,940.07 (2,418.80 on file) ("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:** \$3,200.87.

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

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

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

(a) **Representation:** Each Party acknowledges receiving a Disclosure Regarding Real Estate Agency Relationship, confirms and consents to the following agency relationships in this Lease with the following real estate brokers ("Broker(s)") and/or their agents ("Agent(s)"):

Lessor's Brokerage Firm Essex Realty Management, Inc. License No. 00965485 Is the broker of (check one): ☒ the Lessor; or ☐ both the Lessee and Lessor (dual agent).

Lessor's Agent Sandi Montez License No. 01293010 Is (check one): ☒ the Lessor's Agent (salesperson or broker associate); or ☐ both the Lessee's Agent and the Lessor's Agent (dual agent).

Lessee's Brokerage Firm N/A License No. _____ Is the broker of (check one): ☐ the Lessee; or ☐ both the Lessee and Lessor (dual agent).

Lessee's Agent N/A License No. _____ Is (check one): ☐ the Lessee's Agent (salesperson or broker associate); or ☐ both the Lessee's Agent and the Lessor's Agent (dual agent).

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement ~~(or if there is no such agreement, the sum of _____ or _____ % of the total Base Rent) for the brokerage services rendered by the Brokers.~~

1.11 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by _____ ("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 2:00 p.m. on Saturdays (except Building Holidays). "Building Holidays" shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and N/A.

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

☐ Janitorial services

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Attachment: Proposed Lease (1971 : Proposed Civic Center Lease with Dayle McIntosh Center for the Disabled, Inc., for Suite 320)

☐ 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 7 ;
- ☒ a plot plan depicting the Premises; **Exhibit "A"**
- ☒ a current set of the Rules and Regulations; **Exhibit "B"**
- ☒ a Work Letter; **Exhibit "D"**
- ☐ a janitorial schedule;
- ☒ other (specify): Exhibit "C" Waiver and Release. Agency Disclosure .

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. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("Applicable Requirements") that were in effect at the time that each improvement, or portion thereof, was constructed. 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 non-voluntary, 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

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Attachment: Proposed Lease (1971 : Proposed Civic Center Lease with Dayle McIntosh Center for the Disabled, Inc., for Suite 320)

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

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

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

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

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

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

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

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

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

3. Term.

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

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

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

3.4 Lessee Compliance. Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (**Paragraph 8.5**). **Paragraph 8 of the Lease (See Addendum Paragraph 3)** Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

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

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

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

(b) "Comparison Year" is defined as each calendar year during the term of this Lease subsequent to the Base Year; provided, however, Lessee shall have

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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.

(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, Lessor shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such Year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of said statement. Lessor and Lessee shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last Comparison Year for which Lessee is responsible as to Operating Expense Increases, notwithstanding that the Lease term may have terminated before the end of such Comparison Year.

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

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

4.3 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor

the sum of ~~\$25~~**\$75** in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5.5 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

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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. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. 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. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.

6. Use. (See Addendum Paragraph 2)

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

6.2 Hazardous Substances.

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

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

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

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

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

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

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such

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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 Applicable 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 authorized by Lessor 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 and/or testing the condition of the Premises and/or 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. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

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

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

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants, and the Common Areas.

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, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, 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 as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an

additional Security Deposit with Lessor. **In addition to and without limiting the other requirements of this Paragraph 7.3, all utilities, installations, and alterations made by Lessee shall also be subject to the provisions of Exhibit "D" attached to this Lease.**

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

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by

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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 and the provisions of Paragraph 7.1(a), if the Lessee occupies the Premises 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 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) to the level specified in Applicable 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. Insurance; Indemnity. (See Addendum Paragraph 3)

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

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

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

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

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

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

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

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

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~~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 increase his liability insurance coverage 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, a Breach of the Lease by Lessee and/or the use and/or occupancy of the Premises and/or Project by Lessee and/or by Lessee's employees, contractors or invitees. 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 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 **Paragraph 8 of this Lease) (See Addendum Paragraph 3)** ~~Paragraph 8.3(a)~~, irrespective of any deductible amounts or coverage limits involved.

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

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

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the

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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 (subject to reimbursement pursuant to Paragraph 4.2), 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 8.6.

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. "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.

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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. Notwithstanding the provisions of paragraph 11.1, 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. Notwithstanding the provisions of Paragraph 4.2(vi), 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.

11.6 Within fifteen days of Lessor's written request, Lessee agrees to deliver to Lessor such information, documents and/or authorization as Lessor needs in order for Lessor to comply with new or existing Applicable Requirements relating to commercial building energy usage, ratings, and/or the reporting thereof.

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(d), 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, ie. 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 therefor 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

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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 Paragraph 8.3 (See Addendum Paragraph 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. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(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 safety data 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

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necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

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

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

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, 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 shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(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 to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

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

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

15. Brokerage Fees.

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

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~~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, agent or finder (other than the Brokers and Agents, if any) in connection with this Lease, and that no one other than said named Brokers and Agents 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 AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

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

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

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

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

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

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

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

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

23. Notices.

23.1 Notice Requirements. All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, 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 delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

23.3 Options. Notwithstanding the foregoing, in order to exercise any Options (see paragraph 39), the Notice must be sent by Certified Mail (return receipt requested), Express Mail (signature required), courier (signature required) or some other methodology that provides a receipt establishing the date the notice was received by the Lessor.

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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 monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

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

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

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

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

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

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor 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 confidential information, including, but not limited to, facts relating to either Lessee's or Lessor's financial position, motivations, bargaining position, or other personal information that may impact rent, including Lessor's willingness to accept a rent less than the listing rent or Lessee's willingness to pay rent greater than the rent 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 advice is desired, consult a competent professional. Both Lessor and Lessee should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

(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. Holdover Base Rent shall be calculated on a monthly basis. 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.

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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 Device 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. All requests for consent shall be in writing. 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 AIR CRE.

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

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

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

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

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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 non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

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

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

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Attachment: Proposed Lease (1971 : Proposed Civic Center Lease with Dayle McIntosh Center for the Disabled, Inc., for Suite 320)

attached to this Lease.

49. Accessibility; Americans with Disabilities Act.

(a) The Premises:

☐ have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are 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 compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

50. Tenant Improvement Allowance. Lessor shall provide Lessee with a tenant improvement allowance of up to \$15,270.00. Allowance to be used for minor improvements mutually agreeable to Lessor and Lessee.

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 COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE 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,
Laguna Hills, CA 92654

On: _____

By LESSOR:

The City of Laguna Hills, a municipal
corporation organized and existing under
the laws of the State of California

By: _____

Name Printed: Donald J. White

Title: City Manager

Phone: _____

Fax: _____

Email: _____

By: _____

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Executed at: _____

On: _____

By LESSEE:

Dayle McIntosh Center for the Disabled
Inc., a California Corporation

By: _____

Name Printed: Marcy Lovett

Title: President

Phone: _____

Fax: _____

Email: _____

By: _____

Name Printed: Paula Margeson

Title: _____

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Attachment: Proposed Lease (1971 : Proposed Civic Center Lease with Dayle McIntosh Center for the Disabled, Inc., for Suite 320)

Name Printed: _____
 Title: _____
 Phone: _____
 Fax: _____
 Email: _____
 Address: _____
 Federal ID No.: _____

Phone: _____
 Fax: _____
 Email: _____
 Address: _____
 Federal ID No.: _____

BROKER

Essex Realty Management, Inc.

Attn: Sandi Montez
 Title: Property Manager

Address: 18012 Sky Park Circle, Suite 100,
Irvine CA 92614
 Phone: 949-218-3801
 Fax: _____
 Email: _____
 Federal ID No.: _____
 Broker/AGENT DRE License #: 00965485

BROKER

N/A

Attn: N/A
 Title: _____

Address: _____
 Phone: _____
 Fax: _____
 Email: _____
 Federal ID No.: _____
 Broker/AGENT DRE License #: _____

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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 **October 8, 2019**, between **The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California** (“Lessor”), and **Dayle McIntosh Center for the Disabled Inc., a California corporation** (“Lessee”). 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 Increase.** Paragraph 4.4. is hereby added to the Lease to read as follows:

4.4.1 The monthly Base Rent payable as set forth Paragraph 1.5 and as set forth in Paragraph 1.7 (a) of the Lease shall be adjusted annually on the Commencement Date of the Lease, and on such other dates stated, to the amounts set forth below:

9/1/19-8/31/20	\$2,679.60	\$2.20 PSF
9/1/20-8/31/21	\$2,786.78	\$2.29 PSF
9/1/21-8/31/22	\$2,898.26	\$2.38 PSF
9/1/22-8/31/23	\$3,014.19	\$2.47 PSF
9/1/23-8/31/24	\$3,134.75	\$2.57 PSF

2. **Use.** Paragraph 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. Paragraph 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 Compliance with Insurance Requirements. Lessee shall obtain, maintain, and keep in full force and effect during the term of this Lease, at its sole cost and expense, and in a form and content satisfactory to Lessor, all insurance required under this Paragraph 8 against claims for injuries to persons or damages to property which may arise from or in connection with Lessee’s operation and use of the Premises and the activities of the Lessee, its guests, agents, representatives, employees, or subcontractors. Lessee shall not take possession of the Premises unless and until it has provided evidence satisfactory to Lessor that it has secured all insurance required by this Paragraph 8.

8.3 Types of Insurance Required of Lessee. Without limiting the indemnity provisions set forth in this Lease, Lessee shall obtain and maintain in full force and effect during the term of this Lease, including any extension thereof, the following policies of insurance:

(a) Commercial General Liability Insurance. A policy of Commercial General Liability insurance written on an occurrence basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits of at least Two Million Dollars (\$2,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Premises/location, or the general aggregate limit shall be twice the required occurrence limit. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for: (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Lease.

(b) Automobile Liability Insurance. A policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least One Million Dollars (\$1,000,000) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.

(c) Workers’ Compensation and Employer’s Liability Insurance. A policy of Workers’ Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Lessee agrees to waive and obtain endorsements from its workers’ compensation insurer waiving all subrogation rights under its workers’ compensation insurance policy against Lessor, its officials, officers, employees, agents and volunteers. Lessee shall obtain and maintain, in full force and effect throughout the term of this Lease, a policy of Employer’s Liability Insurance written on a per occurrence basis with limits of at least One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

(d) Property Insurance. A policy of Property Insurance against all risk of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

(e) Equipment Breakdown/ Boiler & Machinery Insurance. A policy of Equipment Breakdown / Boiler & Machinery Insurance with limits of not less than actual replacement costs for all property and improvements, encompassing explosion and breakdown. Lessee shall obtain and deliver to Lessor, along with copies of all policies of insurance required herein, a joint loss endorsement for the Property Insurance and Equipment Breakdown /Boiler & Machinery Insurance policies. Lessor is to be included as an additional insured on the Equipment Breakdown /Boiler & Machinery Insurance coverage.

(f) 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.

8.4 General.

(a) Acceptability of Insurers. Insurance required by this Paragraph 8 shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Line Insurers (LASLI), by the latest edition of A.M. Best's Key Rating Guide, except that Lessor will accept workers' compensation insurance from the State Compensation Fund. In the event Lessor determines that Lessee's use of the Premises creates an increased or decreased risk of loss to Lessor, Lessee agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from Lessor. Lessee shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

(b) Insurance Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to Lessor for written approval. Required insurance policies shall contain the following provisions, or Lessee shall provide endorsements on forms approved by Lessor to add the following provisions to the insurance policies:

(i) Additional Insured. Lessee's policy or policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be endorsed to include Lessor, its officials, officers, employees, agents and volunteers, Lessor's lender, and any property management company of Lessor for the Premises. The additional insured endorsement shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Lessee, or (4) contain any other exclusions contrary to this Lease; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

(ii) Notice. Each insurance policy required by this Paragraph 8, except for workers' compensation and employer's liability insurance, shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to Lessor. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Lessee's failure to pay the insurance premium, the notice provided to Lessor shall be by ten (10) days prior written notice.

(iii) Primary and Non-Contributing Insurance. All policies of insurance maintained by Lessee pursuant to this Paragraph 8, except for workers' compensation and employer's liability insurance, shall be primary and any other insurance, deductible, or self-insurance

maintained by Lessor, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

(iv) Waiver of Subrogation. All policies of insurance maintained by Lessee pursuant to this Paragraph 8 shall contain or be endorsed to waive subrogation against Lessor, its officials, officers, employees, agents and volunteers, or shall specifically allow Lessee to waive its right to recovery prior to a loss. Lessee hereby agrees to waive its own right of recovery against Lessor, its officials, officers, employees, agents and volunteers.

(c) Evidence of Coverage. Concurrently with the execution of this Lease, Lessee shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this Paragraph 8. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to Lessor for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with Lessor. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Lessee shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with Lessor evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Lessee shall promptly furnish, at Lessor's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents Lessor requires to verify coverage.

(d) Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this Lease are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing contained herein shall be construed as limiting in any way the indemnification provision contained in this Lease, or the extent to which Lessee may be held responsible for payments of damages to persons or property.

(e) Enforcement of Agreement (Non-Estoppel). Lessee acknowledges and agrees that actual or alleged failure on the part of the Lessor to inform Lessee of any non-compliance with any of the insurance requirements set forth herein imposes no additional obligation on the Lessor nor does it waive any rights hereunder.

(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 Paragraph 8.

8.5 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Lessee pursuant to this Paragraph 8:

(a) Lessee shall provide immediate written notice to Lessor if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

(b) All insurance coverage and limits provided by Lessee and available or applicable to this Lease are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Lease or any other agreement relating to Lessor or its operations shall limit the application of such insurance coverage.

(c) None of the insurance coverages required herein will be in compliance with the requirements of this Paragraph 8 if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to Lessor and approved in writing.

(d) Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay Lessee's occupancy of the Premises. It is Lessee's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

(e) Lessee agrees to ensure that its subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Lessee, provide the same minimum insurance coverage required of Lessee. Lessee agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Paragraph 8. Lessee agrees that upon request, all agreements with subconsultants, subcontractors and others engaged in the Project will be submitted to Lessor for review."

4. Breach by Lessor; Performance by Lessee on Behalf of Lessor. Paragraph 13.6(c) is hereby added to the Lease to read as follows:

"13.6(c). 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 elected or appointed officers and officials, employees, agents, and volunteers, and Lessee shall have no right to seek recourse against Lessor's elected or appointed officers and officials, employees, agents, and volunteers, 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 Paragraph 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. Council Chambers. Lessee shall be permitted to use council chambers meeting room, all dates of use must be approved by the City of Laguna Hills. Rental rates for the use are \$75/per hour with a two hour minimum.

Signatures on the following page

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

“Lessor”

THE CITY OF LAGUNA HILLS

By: _____

Name Printed: **Donald J. White**

Its: **City Manager**

By: _____

Name Printed: **Melissa Au-Yeung**

Its: **City Clerk**

APPROVED AS TO FORM:

By: _____

City Attorney

[Signatures on next page]

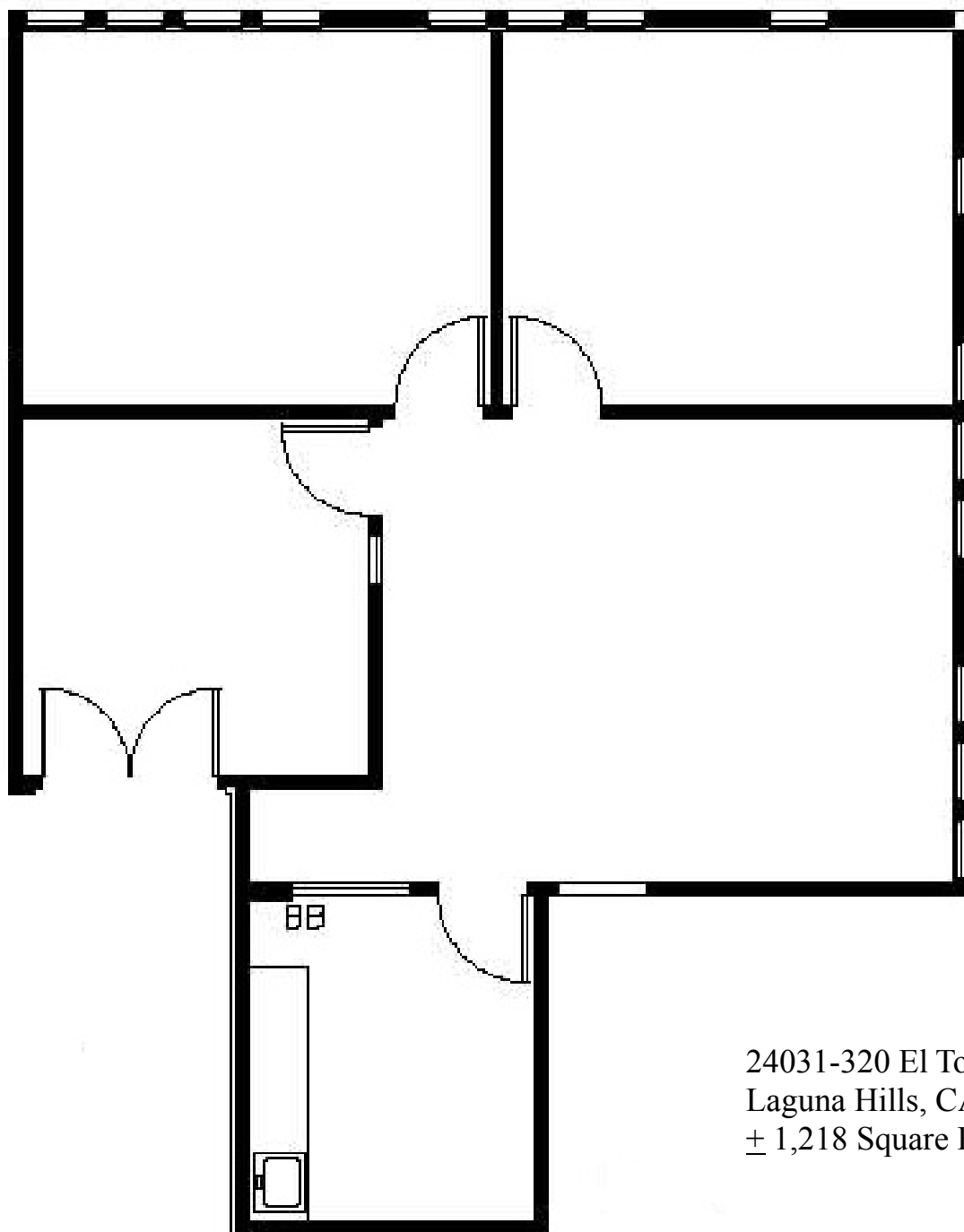
“Lessee”

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

By: _____
Name Printed: **Marcy Lovett**
Title: **President**

By: _____
Name Printed: **Paula Margeson**
Title: **Executive Director**

LAGUNA HILLS CIVIC CENTER



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

For Leasing Information:

Sandi Montez

smontez@essexrealty.com

(949) 218-3801

Managed by:

ESSEX | Management
Investment
Development

Attachment: Proposed Lease (1971 : Proposed Civic Center Lease with Dayle McIntosh Center for the Disabled, Inc., for Suite 320)

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

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

Date: _____

Date: _____

Lessor's Initials: _____ Lessee's Initials: _____

EXHIBIT "D"

WORK LETTER/REQUIREMENTS FOR IMPROVEMENTS OR ALTERATIONS BY LESSEE

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

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

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

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

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

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

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

3. **CONTRACTORS PROVIDING INTERIOR IMPROVEMENT SERVICES.**

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

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

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

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

(e) Prior to commencement of any work in the Premises, Lessee and Lessee's contractors (and any subcontractors) shall obtain and provide Lessor with certificates evidencing Workers' Compensation, public liability and property damage insurance in amounts and forms and with companies

satisfactory to Lessor. Each general contractor (and any subcontractor) employed on the Premises shall provide Lessor with a current certificate of insurance in effect for that contractor with a thirty day notice of cancellation or revocation clause. Insurance requirements are as follows:

- (i) Comprehensive General Liability with a \$1,000,000 Combined Single Limit covering the liability of Lessor and contractor for bodily injury and property damage arising as a result of the construction of the improvements and the services performed thereunder. Lessor and any Management Company shall be named as an additional insured.
- (ii) Comprehensive Automobile Liability with a \$1,000,000 Combined Single Limit covering Lessor and vehicles used by contractor (and any subcontractor) in connection with the construction of the improvements.
- (iii) Workers' Compensation and Employer's Liability as required by law, for employees of the contractor (and any subcontractors) performing work on the Premises.

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

- (i) Prior to start of Lessee's Work, Lessee's contractor shall provide Lessor with a construction schedule in "bar graph" form indicating the completion dates of all phases of Lessee's Work.
- (ii) Lessee's contractor shall be responsible for the repair, replacement or clean-up of any damage done by it to other contractors' work which specifically includes accessways to the Premises which may be concurrently used by others.
- (iii) Lessee's contractor shall accept the Premises prior to starting any trenching operations. Any rework of sub-base or compaction required after the contractor's initial acceptance of the Premises shall be done by Lessee's contractor, which shall include the removal from the Project of any excess dirt or debris.
- (iv) Lessee's contractor shall contain its storage of materials and its operations within the Premises and such other space as it may be assigned by Lessor or Lessor's contractor. Should Lessee's contractor be assigned space outside the Premises, it shall move to such other space as Lessor or Lessor's contractor shall direct from time to time to avoid interference or delays with other work.
- (v) Lessee's contractor shall clean up the construction area and surrounding exterior areas daily. All trash, demolition materials and surplus construction materials shall be stored within the Premises and promptly removed from the Premises and the Project and disposed of in an approved sanitation site.
- (vi) Lessee's contractor shall provide temporary utilities, portable toilet facilities, and potable drinking water as required for its work within the Premises and shall pay to Lessor's contractor the cost of any temporary utilities and facilities provided by Lessor's contractor at Lessee's

contractor's request.

- (vii) Lessee's contractor shall notify Lessor or Lessor's project manager of any planned work to be done on weekends or other than normal job hours.
- (viii) Lessee's contractor or subcontractors shall not post signs on any part of the Project or on the Premises.

4. COSTS.

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

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

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

6. MECHANIC'S LIENS.

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

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

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

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

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

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

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

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

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

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

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

15. GENERAL PROVISIONS.

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

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

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

Attachment 1 to “Exhibit D”**ITEMS TO BE FURNISHED TO LESSOR FOR EACH WORK OF IMPROVEMENT**

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



DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill 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 that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A Buyer's agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill 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 that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more salesperson and broker associates, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

SELLER AND BUYER RESPONSIBILITIES

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as a dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation. Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. **This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).**

☐ Buyer	☐ Seller	☒ Lessor	☐ Lessee	<u>The City of Laguna Hills</u>	Date: <u>10/8/19</u>
☐ Buyer	☐ Seller	☐ Lessor	☒ Lessee	<u>Dayle McIntosh Center for the Disabled Inc.</u>	Date: <u>10/8/19</u>

Agent: Essex Realty Management DRE Lic. #: 00965485
Real Estate Broker (Firm)

By: Sandi Montez DRE Lic. #: 01293010 Date: 10/8/19

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(Salesperson or Broker-Associate)

THIS FORM HAS BEEN PREPARED BY AIR CRE. NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF THIS FORM FOR ANY SPECIFIC TRANSACTION. PLEASE SEEK LEGAL COUNSEL AS TO THE APPROPRIATENESS OF THIS FORM.

Attachment: Proposed Lease (1971 : Proposed Civic Center Lease with Dayle McIntosh Center for the Disabled, Inc., for Suite 320)

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DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP
CIVIL CODE SECTIONS 2079.13 THROUGH 2079.24 (2079.16 APPEARS ON THE FRONT)

2079.13. As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions. **(b)** "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property. **(c)** "Commercial real property" means all real property in the state, except (1) single-family residential real property, (2) dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, (3) a mobilehome, as defined in Section 798.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29. **(d)** "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction. **(e)** "Listing agreement" means a written contract between a seller of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer, including rendering other services for which a real estate license is required to the seller pursuant to the terms of the agreement. **(f)** "Seller's agent" means a person who has obtained a listing of real property to act as an agent for compensation. **(g)** "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the seller's agent. **(h)** "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(i)** "Offer to purchase" means a written contract executed by a buyer acting through a buyer's agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(j)** "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property, and includes (1) single-family residential property, (2) multiunit residential property with more than four dwelling units, (3) commercial real property, (4) vacant land, (5) a ground lease coupled with improvements, or (6) a manufactured home as defined in Section 18007 of the Health and Safety Code, or a mobilehome as defined in Section 18008 of the Health and Safety Code, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(k)** "Real property transaction" means a transaction for the sale of real property in which an agent is retained by a buyer, seller, or both a buyer and seller to act in that transaction, and includes a listing or an offer to purchase. **(l)** "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(m)** "Seller" means the transferor in a real property transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor of real property. **(n)** "Buyer's agent" means an agent who represents a buyer in a real property transaction.

2079.14. A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows: **(a)** The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The buyer's agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer.

2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.16 Reproduced on Page 1 of this AD form.

2079.17(a) As soon as practicable, the buyer's agent shall disclose to the buyer and seller whether the agent is acting in the real property transaction as the buyer's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the buyer's agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the seller's agent shall disclose to the seller whether the seller's agent is acting in the real property transaction as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the seller's agent prior to or coincident with the execution of that contract by the seller.

(c) CONFIRMATION: The following agency relationships are confirmed for this transaction.

Seller's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is the broker of (check one): ☐ the seller; or ☐ both the buyer and seller. (dual agent)

Seller's Agent DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is (check one): ☐ the Seller's Agent. (salesperson or broker associate); or ☐ both the Buyer's Agent and the Seller's Agent. (dual agent)

Buyer's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is the broker of (check one): ☐ the buyer; or ☐ both the buyer and seller. (dual agent)

Buyer's Agent DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is (check one): ☐ the Buyer's Agent. (salesperson or broker associate); or ☐ both the Buyer's Agent and the Seller's Agent. (dual agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14. An agent's duty to provide disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker.

2079.18 (Repealed pursuant to AB-1289, 2017-18 California Legislative session)

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically

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prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21 (a) A dual agent may not, without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller. **(b)** A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer. **(c)** "Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered. **(d)** This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22 Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented by an agent, that does not, of itself, make that agent a dual agent.

2079.23 (a) A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship. **(b)** A lender or an auction company retained by a lender to control aspects of a transaction of real property subject to this part, including validating the sales price, shall not require, as a condition of receiving the lender's approval of the transaction, the homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company. Any clause, provision, covenant, or agreement purporting to impose an obligation to defend or indemnify a lender or an auction company in violation of this subdivision is against public policy, void, and unenforceable.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

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City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Amendment No. 2 to Lease with the Banc of California, a National Association, for 24033 El Toro Rd., Suite 130, Laguna Hills, California

RECOMMENDATION: That the City Council approve Amendment No. 2 to the Lease with the Banc of California, a National Association, for 24033 El Toro Road, Suite 130, Laguna Hills, California, and authorize the Mayor to execute the Amendment.

SUMMARY:

The City Council approved a lease with the Banc of California on April 28, 2015, the terms of which included 3 five-year options to extend the original lease. A subsequent Amendment No. 1 was approved on November 24, 2015 to clarify tenant signage as well as establish a firm Lease commencement date of November 1, 2015.

In July of 2019, the Banc of California provided City staff with notice that it wishes to avail itself of its first five-year option to extend. Staff has completed negotiations and the following is a summary of the key lease option terms and financial analysis:

Option Commencement Date:	November 1, 2020
Term:	Five (5) years
Rentable Square Feet:	2,394
Upfront Capital:	\$8,389
Rate:	Year 1 - \$2.20/ sq. ft. Year 2 - \$2.27/ sq. ft.

Amendment No. 2 to Lease with Banc of California
October 8, 2019
Page 2

Year 3 - \$2.33/ sq. ft.

Year 4 - \$2.40/ sq. ft.

Year 5 - \$2.48/ sq. ft.

Total Rent Payments: \$335,546

Net Present Value: \$189,630 (12% Discount Rate)

For reference, a copy of the original Lease, as well as Amendment No. 1, have been included as an attachment to this report. The City Attorney has prepared the attachment Amendment No. 2 to the Lease with Banc of California. Staff is recommending the City Council approve the Amendment No. 2 and authorize the Mayor to execute the Amendment.

FISCAL IMPACT:

As noted above, the total Lease payments for the five-year extended term will total \$335,546 with a net present value of \$189,630.

ATTACHMENTS:

- Proposed Amendment No. 2
- Banc of California Lease
- Amendment No. 1

**AMENDMENT NO. 2
TO
STANDARD MULTI-TENANT OFFICE LEASE AGREEMENT
Banc of California, A National Association
(Laguna Hills Civic Center Office Building, Suite 130)**

THIS SECOND AMENDMENT to the Standard Multi-Tenant Office Lease Agreement with Banc of California ("Amendment" or "Amendment No. 2") is made and entered into to be effective this 8th day of October 2019, by and between THE CITY OF LAGUNA HILLS, a municipal corporation organized and existing under the laws of the State of California (hereinafter referred to as "Lessor"), and BANC OF CALIFORNIA, a National Association (hereinafter referred to as "Lessee"). Lessor and Lessee are sometimes hereinafter individually referred to as "Party" and are hereinafter collectively referred to as "Parties".

RECITALS

A. Lessor and Lessee previously entered into that certain Standard Multi-Tenant Office Lease Agreement for the Premises commonly known as the Laguna Hills Civic Center Office Building, located at 24033 El Toro Road, Suite 130, consisting of approximately 2,394 square feet, which lease agreement was made and entered into on April 28, 2015, and which may be duly amended, in writing, from time to time by the Parties ("Lease"). Unless otherwise specifically defined herein, capitalized terms used in this Amendment shall have the same meaning as ascribed to them in the Lease.

B. On November 24, 2015, the Parties entered into Amendment No. 1 to the Lease, modifying certain terms and conditions of the Lease related to the Original Term of the Lease ("Amendment No. 1"). Amendment No. 1 to the Lease provides that the "Original Term" of the Lease commenced on November 1, 2015 ("Commencement Date") and is scheduled to expire 60 months after the Commencement Date on October 31, 2020 ("Expiration Date").

C. Paragraph 52 of the Lease, however, provides Lessee with an Option to extend the Term of the Lease. Pursuant to Paragraph 52 of the Lease (entitled, "Lessee Option to Extend"), Lessee shall have three (3) five (5) year options to extend the Original Term of the Lease under the same terms and conditions, subject to certain requirements.

D. Unless amended by mutual written agreement of the Parties, the Lease is currently scheduled to expire on October 31, 2020, by operation of its own terms. Pursuant to Paragraph 52 of the Lease, Lessee has requested to exercise its first Option to Extend the Term of the Lease for an additional five (5) year term under the same terms and conditions, except as provided otherwise herein, commencing on November 1, 2020 and expiring 60 months thereafter on October 31, 2025 ("Renewal Term").

E. Lessor and Lessee now desire to modify certain terms and conditions of the Lease, as set forth in this Amendment. More specifically, the Parties desire to enter into

Attachment: Proposed Amendment No. 2 (1970 : Amendment No. 2 to Lease with Banc of California)

this Amendment No. 2 for the purpose of extending the Term of the Lease for one additional five (5) year term, commencing on November 1, 2020 and expiring 60 months thereafter on October 31, 2025 ("Renewal Term").

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, the Parties agree as follows:

1. Amendment to Paragraph 1.3, entitled "Term", of the Lease: Pursuant to Paragraph 52 of the Lease ("Lessee Option to Extend"), Paragraph 1.3 of the Lease is hereby amended as follows:

The Original Term of the Lease is hereby extended five (5) years, commencing on November 1, 2020 and expiring 60 months thereafter on October 31, 2025 ("Renewal Term").

2. Amendment to Paragraph 4.4, entitled "Base Rent Schedule", of the Lease: As a result of Lessee timely exercising its first Option to Extend, the following is hereby added to Paragraph 4.4.1 of the Lease regarding the monthly Base Rent Schedule, which adjusted monthly base rent schedule is established for the period of the Renewal Term authorized herein:

11/1/2020	10/31/2021	\$5,266.80
11/1/2021	10/31/2022	\$5,424.80
11/1/2022	10/31/2023	\$5,587.55
11/1/2023	10/31/2024	\$5,755.17
11/1/2024	10/31/2025	\$5,927.83

3. Full Force and Effect. This Amendment No. 2 is supplemental to the Lease and is by reference made part of said Lease. All of the terms, conditions, and provisions, thereof, unless specifically modified herein, shall continue in full force and effect. In the event of any conflict or inconsistency between the provisions of this Amendment No. 2 and any provisions of the Lease, the provisions of this Amendment No. 2 shall in all respects govern and control.

4. Recitals. The above-referenced Recitals are hereby incorporated into this Amendment as though fully set forth herein and made part of the Lease and each Party acknowledges and agrees that such Party is bound, for purposes of the Lease, by the same.

5. Corporate Authority. Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Amendment is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Amendment on behalf of the Party for which he/she is signing, (iii) by so executing this Amendment, the Party for which he/she is signing is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which the Party for which he/she is signing is bound.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 as of the date first written above.

"LESSOR"

CITY OF LAGUNA HILLS, a California
municipal corporation

By: _____
DON SEDGWICK, MAYOR

ATTEST:

By: _____
Melissa Au-Yeung, City Clerk

APPROVED AS TO FORM:

By: _____
Gregory E. Simonian, City Attorney

"LESSEE"

BANC OF CALIFORNIA, a National
Association

By: _____
Name: MS. SIMA PARSA
Its: Senior Vice President of Corporate
Real Estate and Procurement

By: _____
Name: MATTHEW MARCH,
Its: Executive Vice President/
Chief Information Officer

Attachment: Proposed Amendment No. 2 (1970 : Amendment No. 2 to Lease with Banc of California)



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 April 28, 2015,

is made by and between The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California

("Lessor")

and BANC of California, a National Association

("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) 130, First floor(s), consisting of approximately 2,394 rentable square feet and approximately 2,001 useable square feet ("Premises"). The Premises are located at: 24033 El Toro Road, in the City of Laguna Hills, County of Orange, State of California, with zip code 92654. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or the utility raceways of the building containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." The Project consists of approximately 51,943 rentable square feet. (See also Paragraph 2)

1.2(b) Parking: 4/1000 unreserved and 2 reserved vehicle ATM 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: Five years and N/A months ("Original Term") commencing Upon substantial completion of TI's or 180 days from date of Lease execution ("Commencement Date") and ending 60 months after commencement ("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: \$4,548.60 per month ("Base Rent"), payable on the First day of each month commencing Upon substantial completion of TI's or 180 days from date of Lease execution. (See also Paragraph 4 below)

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

1.6 Lessee's Share of Operating Expense Increase: 4.61% percent (4.61%) ("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: \$4,548.60 for the period Month one of term.
- (b) Security Deposit: \$5,119.49 ("Security Deposit"). (See also Paragraph 5)
- (c) Parking: \$N/A for the period N/A.
- (d) Other: \$N/A for N/A.
- (e) Total Due Upon Execution of this Lease: \$9,668.09.

1.8 Agreed Use: Banking services, marketing of any other financial services and investment products and general office. (See also Paragraph 6)

1.9 Base Year; Insuring Party. The Base Year is 2016. Lessor is the "Insuring Party". (See also Paragraphs 4.2 and 8)

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

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

- ☒ Essex Realty Management represents Lessor exclusively ("Lessor's Broker");
- ☒ Gremel Williams Commercial Real Estate represents Lessee exclusively ("Lessee's Broker"); or
- ☐ N/A represents both Lessor and Lessee ("Dual Agency").

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

1.11 Guarantor. The obligations of the Lessee under this Lease shall be guaranteed by N/A

("Guarantor"). (See also Paragraph 37)

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

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

- ☐ Janitorial services
☐ Electricity
☐ Other (specify): N/A

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

- ☒ an Addendum consisting of Paragraphs 1 through 6;
☒ a plot plan depicting the Premises; Exhibit "A"
☒ a current set of the Rules and Regulations; Exhibit "B"
☒ a Work Letter; / Requirements for improvements or alterations by Lessee (Exhibit "D")
☐ a janitorial schedule;
☒ other (specify): Exhibit "C" Waiver and Release, Exhibit "E" Approved Preliminary Plans

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.

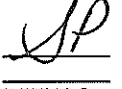
2.6 **Vehicle Parking.** So long as Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from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


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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 or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

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

4. Rent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

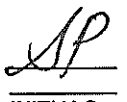
(vii) Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Project and accounting and management fees attributable to the operation of the Project;

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

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



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(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.

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

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

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

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

4.4 (See Addendum Paragraph 1 - "Base Rent Schedule").

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

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

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

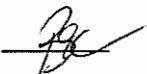
6.2 Hazardous Substances.

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

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

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

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises


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from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

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

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

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

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

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

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

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

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

7.3 Utility Installations; Trade Fixtures; Alterations.

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

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof, ceilings, floors or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed \$2,000 \$5,000 in any 12 month period. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with asbuilt plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor. In addition to, and without limiting the other requirements of this Paragraph 7.3 all utilities, installations, and alterations made by Lessee shall also be subject to the provisions of Exhibit "D" attached to this Lease.

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

7.4 Ownership; Removal; Surrender; and Restoration.

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


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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 Paragraph 3.)

Insurance; Indemnity.

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

~~8.2 Liability Insurance.~~

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

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

~~8.3 Property Insurance—Building, Improvements and Rental Value.~~

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

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

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

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

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

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

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

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

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

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

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

~~8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee~~

shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

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

9. Damage or Destruction.

9.1 Definitions.

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

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

(c) "Insured Loss" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraphs 8.1 & 8.2 of this Lease (See Addendum Paragraph 3) Paragraph 8-3(a), irrespective of any deductible amounts or coverage limits involved.

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

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

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

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

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.3 (e) of this Lease (see Addendum Paragraph 3) Paragraph 8-6.

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

9.6 Abatement of Rent; Lessee's Remedies.

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

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

9.7 Termination; Advance Payments. Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable


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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 4.13 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.


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

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

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

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

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

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

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

13. Default; Breach; Remedies.

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

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

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

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

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

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

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

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

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

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

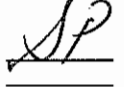
(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of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

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

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

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no


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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 shall bear interest from the 31st day after it was due. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor. (see Addendum)

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

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

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

15. Brokerage Fees.

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

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

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

16. Estoppel Certificates.

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

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

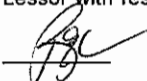
(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender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

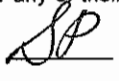
17. Definition of Lessor. The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this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

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

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

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


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personal assets for such satisfaction.

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

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

23. **Notices.**

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

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

24. **Waivers.**

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

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

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

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

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

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

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

(iii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor 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 advice 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.

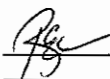
26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration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

Premises or any part thereof beyond the expiration or termination of this Lease; and 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. Notwithstanding the foregoing, it is understood and agreed that at the end of the Original Term the Lessee shall have the right, subject to providing Lessor at least sixty (60) days written notice prior to the Lease Expiration Date, to holdover for up to two (2) months after the Lease Expiration Date (see, Paragraph 1.3 of this Lease) at the then-current monthly Base Rent that the Lessee is paying at the time of the Expiration Date (see, Paragraphs 1.3, 1.5, 1.7, and 4.4 of this Lease) (See, Addendum Paragraph 1 - "Base Rent Schedule"). Thereafter, Lessee shall then have the further option to holdover on a month-to-month basis at 150% of the then-current monthly Base Rent that the Lessee is paying at the time of the Expiration Date; however, it is expressly understood and agreed that Lessor and Lessee shall each have the right to either cancel or terminate this second month-to-month holdover option upon thirty (30) days written notice to the other party.

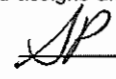
27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

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


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

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

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

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

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

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

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

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

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

37. Guarantor.

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

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

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

39. Options. If Lessee is granted any Option, as defined below, then the following provisions shall apply. (See, Paragraphs 26 and 52 of this Lease.)

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).

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

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

41. **Reservations.**

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

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

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

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

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

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

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

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

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

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

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

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

48. **Arbitration of Disputes.** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease

☐ is ☒ is not attached to this Lease.

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

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

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

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

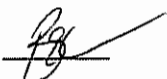
50. **Tenant Improvement.** Lessor shall provide to Lessee a tenant improvement allowance up to \$30.00 per usable square foot (\$60,030.00) to be used for a bank build out of the Premises.

51. **ATM Installation.** Lessee shall have the right, at Lessee's sole cost and expense, to design, construct, install, and maintain during the Term of this Lease an exterior ATM at a mutually agreeable location on the Building; however it is expressly understood and agreed that the Parties shall mutually agree in advance and in writing as to a) the design, size, scope, and specification of said ATM, and b) the specific location that the ATM will be installed and maintained by Lessee on the Building. Lessor's approval of the design, size, scope, and specifications, as well as the proposed ATM location, shall not be unreasonably withheld.

52. **Lessee Option to Extend.** Except as provided otherwise in this Lease, Lessee shall have three (3) five (5) year options to extend this Lease under the same terms and conditions subject, however, to the following conditions: (1) Lessee shall, prior to the Lease Expiration Date, provide eighteen (18) months written notice to Lessor of Lessee's intent to exercise the Lease extension option set forth in this Paragraph; and, (2) the monthly Base Rent for the renewal term authorized by this Paragraph shall be 95% of the then-current Fair Market Value for general office space at the time Lessee elects to exercise the extended term option.

53. **Tenant Signage.** Lessee shall have the right to install and maintain at its sole cost and expense exterior commercial signage advertising Lessee's business name on the Building, as well as an individual commercial tenant monument sign advertising the Lessee's business name near the Building site entrance during the Term of this Lease provided, however, that said exterior commercial tenant signage conforms with and is in compliance at all times during the Term of this Lease with all applicable sign regulations and requirements set forth in the Laguna Hills Municipal Code. Such exterior commercial tenant signage shall be approved by Lessor, which approval shall not be unreasonably withheld, and shall be included and made a part of the Laguna Hills Civic Center sign program, and shall be reviewed and approved by Lessor as part of the Laguna Hills Civic Center sign program.

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:


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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

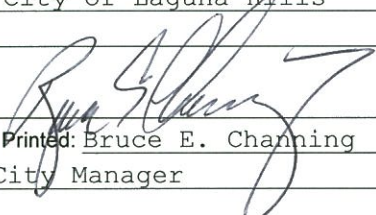
Executed at:

On:

On:

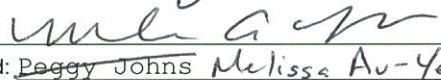
By LESSOR:

The City of Laguna Hills

By: 

Name Printed: Bruce E. Channing

Title: City Manager

By: 

Name Printed: Peggy Johns Melissa Au-Young

Title: City Clerk

Address: 24031 El Toro Road, Suite 100

Laguna Hills, CA 92654

Telephone:()

Facsimile:()

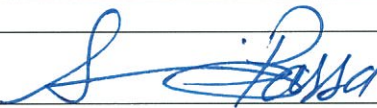
Email:

Email:

Federal ID No.

By LESSEE:

BANC of California, a National Association

By: 

Name Printed: Ms. Sima Parsa

Title: SVP of Corp. Real Estate and Procurement

By: 

Name Printed: Matthew March

Title: EVP, Chief Information Officer

Address: 18500 Von Karman Ave #1100

Irvine, CA 92612

Telephone:()

Facsimile:()

Email: sima.parsa@bancofcal.com

Email:

Federal ID No. 04-3639825

LESSOR'S BROKER:

Essex Realty Management, Inc.

Attn: Sandi Montez

Address: 111 Corporate Drive, Suite 110

Ladera Ranch, CA 92694

Telephone:(949) 218-3801

Facsimile:()

Email:

Broker/Agent DRE License #: 00965485

LESSEE'S BROKER:

Gremel Williams Commercial Real Estate

Attn: Scott Williams

Address:

Telephone:(949) 492-3900

Facsimile:(949) 492-0876

Email: scott@gremel-williams.com

Broker/Agent DRE License #: 00913878

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

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ADDENDUM TO LEASE

THIS ADDENDUM TO LEASE (this "Addendum") shall constitute part of that certain STANDARD MULTI-LESSEE OFFICE LEASE – GROSS ("Lease"), dated as of April 28, 2015, between The City of Laguna Hills ("Lessor"), and BANC of California, a National Association ("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 1.5 and 1.7 (a) of the Lease shall be adjusted as set forth below:

Months 1-12	\$4,548.60
Months 12-24	\$4,685.06
Months 25-36	\$4,825.61
Months 37-48	\$4,970.38
Months 49-60	\$5,119.49

2. Parking. Section 2.6 of the Lease is hereby supplemented to provide that Lessee shall be entitled to a total of two (2) parking spaces located in immediate proximity to the ATM installed at the Premises by Lessee, if any. The spaces shall be designated as being for "BANC ATM Parking Only" by Lessor, as reasonably approved by Lessee.
3. Common Areas. Lessor shall not make any changes to the Common Area pursuant to Section 2.10, which materially and adversely impact Lessee's access, ingress, egress or visibility of the Premises or any ATM installation of Lessee and Lessor shall conduct such change in a manner which results in the minimum reasonable impact on Lessee's use of the Premises and that of its employees and customers. .
4. Operating Expenses. Notwithstanding anything in the Lease to the contrary, Lessee shall not be responsible for any Operating Expenses in connection with the maintenance of the roof or any Building systems during the initial two (2) years of the Lease term. Furthermore, notwithstanding anything in the Lease to the contrary, Operating Expenses shall not include the following items:

- (a) costs incurred by Lessor for the repair of damage to the Building pursuant to the terms of the Lease or otherwise (other than commercially reasonable insurance deductibles);
- (b) the cost of any item reimbursable by insurance or condemnation proceeds or which would be reimbursable from insurance required to be maintained by Lessor under this Lease;
- (c) costs, including permit, license and inspection costs, incurred with respect to the installation of Lessees' or other occupants' improvements made for Lessees or other occupants in the Building or incurred in renovating or otherwise improving, decorating, painting or redecorating space for Lessees or other occupants of the Building;
- (d) marketing and promotional costs, including but not limited to leasing commissions, real estate brokerage commissions, and attorneys' fees in connection with the negotiation and preparation of letters, deal memos, letters of intent, leases, subleases and/or assignments, space planning costs, and other costs and expenses incurred in connection with lease, sublease and/or assignment negotiations and transactions with present or prospective Lessees or other occupants of the Building;
- (e) legal and accounting fees for preparation of Lessor's business documents, including the preparation of any and all income tax returns;
- (f) costs and the overhead and profit increment paid to Lessor, to affiliates or partners of Lessor, partners or affiliates of such partners, or affiliates of Lessor for goods and/or services in the Building to the extent the same exceeds the costs or the overhead and profit increment, as the case may be, of such goods and/or services rendered by unaffiliated third parties on a competitive basis;
- (g) Lessor's general corporate overhead and general and administrative expenses, including costs relating to accounting, payroll, legal and computer services;
- (h) advertising and promotional expenditures, including but not limited to Lessee newsletters and Building promotional gifts, events or parties for existing or future occupants, and the costs of signs (other than the Building directory) in or on the Building identifying the owner of the Building or other Lessees' signs;
- (i) costs incurred in connection with causing the Project and the Premises to comply with any Applicable Laws, governmental laws and regulations, including, but not limited to, the Americans With Disabilities Act and other laws and regulations regarding disabled access in violation as of the Lease Commencement Date, as such laws are locally enforced;
- (j) costs, penalties, fines, or awards and interest incurred as a result of the negligence of Lessor or its agents, employees or independent contractors in Lessor's operation of the Building, violations of law, negligence or inability or unwillingness to make payments and/or to file any income tax, other tax or informational returns when due;

- (k) costs arising from the presence or removal of hazardous or toxic materials or substances located on or about the Building prior to Lease Commencement Date;
- (l) any increase in Real Property Taxes resulting from a change of ownership or any other reason in excess of 2% per annum;
- (m) the cost of correcting defects in the design, construction or equipping of the Building or in the Building equipment;
- (n) costs incurred by Lessor in connection with rooftop communications equipment of Lessor or other persons, Lessees or occupants on the Building, unless for building operation;
- (o) costs for services normally provided by a property manager where Operating Expenses already include a management fee;
- (p) any costs, fees, dues, contributions or similar expenses for industry associations or similar organizations;
- (q) the entertainment expenses and travel expenses of Lessor, its employees, agents, partners and affiliates or any costs for sculpture, paintings or other objects of art;
- (r) any costs recovered by Lessor to the extent such cost recovery allows Lessor to recover more than 100% of Operating Expenses for any calendar year from Lessees of the Building;
- (s) Lessee improvement costs;
- (t) Any other expenses which, in accordance with generally accepted accounting principles, consistently applied, would not normally be treated as operating costs by Lessors of comparable buildings (except costs of a capital nature that are expressly permitted by the terms of this Lease and which are amortized in accordance with subsection 40 below); and
- (u) Costs of a capital nature, including, without limitation, capital improvements, capital repairs, capital equipment and capital tools, all as determined in accordance with generally accepted accounting principles, consistently applied, provided that capital expenditures that are expressly permitted by the terms of this Lease may be amortized over their useful life based on an interest rate of 8% per annum and the annual amount included in Operating Expenses, provided in no event shall the amount of capital expenses based on such amortization exceed the sum of \$10,000 in any calendar year.

To the extent that an expense is not specifically included or excluded as a component of Operating Expenses, whether such expense shall be treated as an Operating Expense shall be determined in accordance with generally accepted accounting principles, consistently applied. Lessor shall use its commercially reasonable efforts to manage the Project in a first class, economical manner.

5. 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”). Notwithstanding anything to the contrary set forth herein, Lessee shall not be required to make structural or capital improvements to the Premises, including under any Applicable Laws, unless triggered by Lessee’s particular use or any change of use or Alteration by Lessee and Lessor shall be responsible for all costs relating to the compliance with Applicable Laws in effect on the date of this Lease. 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 Lessees, 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 Lessee 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 Lessee’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.

6. Lessee’s Compliance with Applicable Requirements. Section 6.3 is hereby supplemented to provide that notwithstanding anything to the contrary set forth herein, Lessee shall not be required to make structural or capital improvements to the Premises unless triggered by Lessee’s particular use or any change of use or Alteration by Lessee and Lessor shall be responsible for all costs relating to the compliance with Applicable Laws in effect on the date of this Lease.

7. 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 One Million Dollars (\$1,000,000);

(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."

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Attachment: Banc of California Lease (1970 : Amendment No. 2 to Lease with Banc of California)

(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.

8. Permitted Assignee. The following is hereby inserted as Section 12.4 of the Lease:

"12.4. Permitted Assignee. Notwithstanding anything in the Lease to the contrary, without notice to or receipt of Lessor's consent and without any obligation to pay Lessor any fee or charge in connection therewith, Lessee has the right to assign the Lease, sublet the entire Premises, or transfer the leasehold interest as a result of: (i) the sale or exchange of Lessee's stock on a national exchange or a public offering of stock; (ii) a private offering or transfer of stock in connection with a merger, sale, consolidation or joint venture; (iii) a transfer to an affiliate or subsidiary of Lessee; (iv) a merger or consolidation; (v) the exchange of stock between Lessee's parent company, if any, or a subsidiary; (vi) the sale of Lessee's stock or assets; (vii) assignment to a franchise acquiring at least five (5) of Lessee's store locations in the trade area including the Premises; (viii) the sublease or assignment of all or a portion of the Premises to any subsidiary or affiliated company or service provider of Lessee, or (ix) a transfer in connection with the sale of the business. Lessee shall provide notice of the completion of such transaction within thirty (30) days thereafter. An assignee or a resulting entity described in

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Attachment: Banc of California Lease (1970 : Amendment No. 2 to Lease with Banc of California)

this paragraph shall be referred to in this Lease as a "Permitted Assignee". Any rights which are personal to the original Lessee under the lease shall inure to the benefit of any Permitted Assignee, notwithstanding any language to the contrary."

9. 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."

10. 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.

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

12. Non-Disturbance Agreement. Concurrently with the execution and delivery of this Lease, Lessor shall deliver a Non-Disturbance Agreement as described in Section 30.3 of the Lease from the holder of any Security Device affecting the Building, which agreement shall also be for the benefit of any subLessees, assigns or successors of Lessee.

13. Extended Terms. Lessee shall provide Lessor six (6) months prior written notice of Lessee's intent to exercise its Option to Extend. Lessor shall respond within thirty (30) days with a proposed Base Rent for the option based on fair market rental rates. Lessee shall accept or respond to such amount within sixty (60) days thereafter. In the event Lessor and Lessee are unable to agree on a Base Rent within such sixty (60) day period, the Base Rent shall be determined as follows: Lessor and Lessee shall each appoint an independent real estate appraiser with at least five (5) years commercial appraisal experience in the inland empire or Orange County area, and having no financial interest, relationship, or affiliation with either party. Within thirty (30) days after their appointment, each appraiser shall provide a written appraisal of Base Rent for the Extended Term, based upon the above criteria. The Base Rent for such Extended Term shall be the average of two (2) appraisals. However, if the appraisals differ by more than ten percent (10%), then a third similarly qualified appraiser shall be appointed by the first two (2) appraisers within ten (10) days thereafter, which third appraiser shall also provide a written appraisal of Base Rent. Base Rent shall then be the average

of three (3) appraisals, except that any appraisal which differs by more than ten percent (10%) from both of the other appraisals shall be discarded and the Base Rent shall be the average of two (2) remaining appraisals. If no two (2) appraisals are within ten percent (10%) of each other, then the issue of Base Rent shall be submitted to a binding arbitration before the Judicial Arbitration Mediation Services in Orange County, California, whose decision as to Base Rent shall be binding on the parties. Each party shall bear equally, the cost of the foregoing procedures.

14. Electrical Meter. Prior to delivery of the Premises to Lessee, Lessor shall install a new 200 Amp 120/208V 3 phase panel to location approved by Lessee and shall be responsible for the cost of any modification to switchgear resulting from the installation of the new meter for the Premises.

15. Preliminary Plans. Lessor hereby approves the Preliminary Plans attached hereto as Exhibit "E", including the location of the ATM.

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~~ Melissa Au-Yang

By: _____

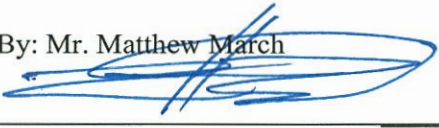
Its: City Clerk

APPROVED AS TO FORM

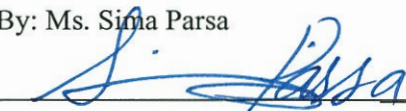
By: _____

City Attorney

“Lessee”
Banc of California, a National Association

By: Mr. Matthew March


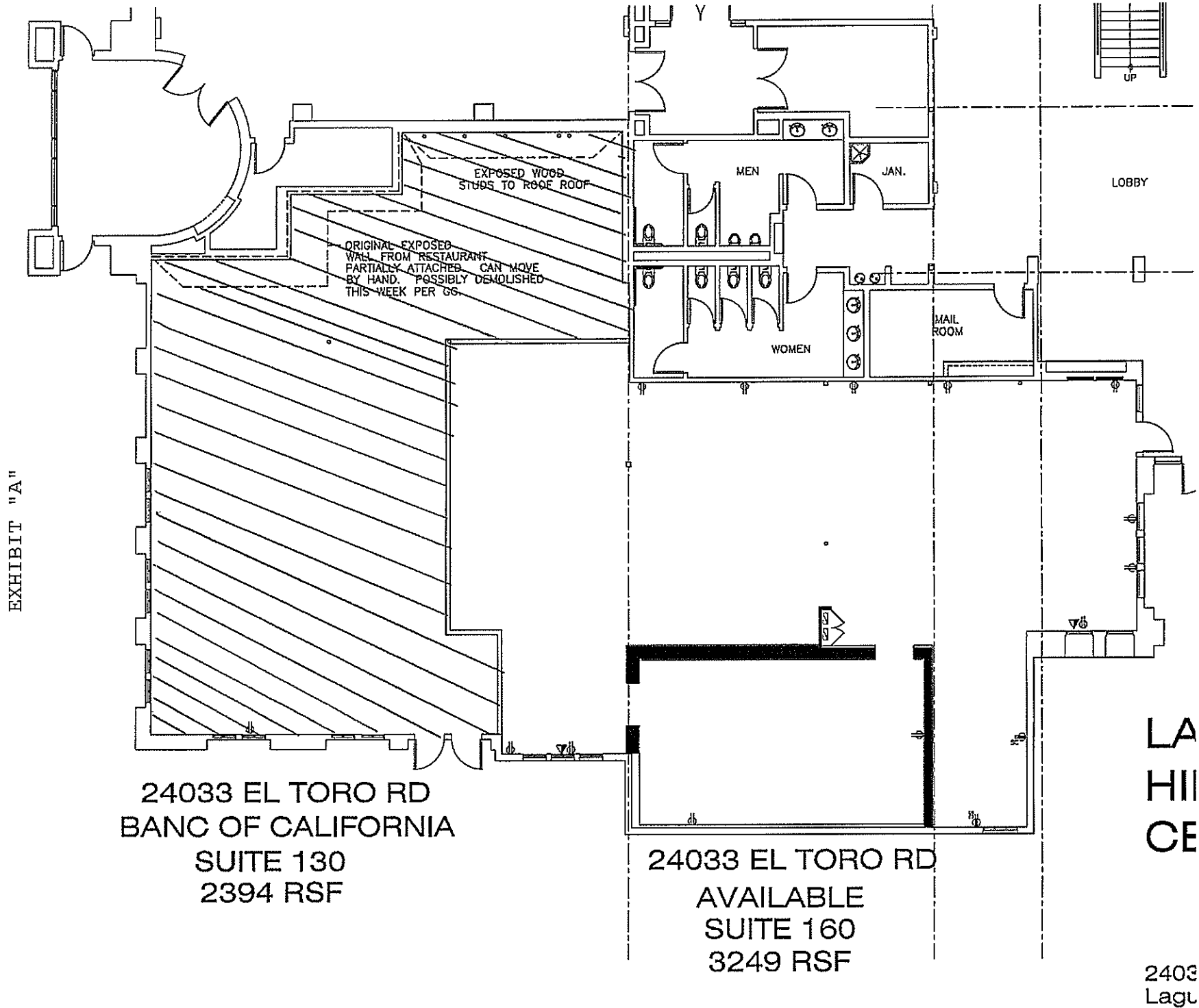
Its: EVP, Chief Information Officer

By: Ms. Sima Parsa


Its: SVP of Corporate Real Estate and Procurement

Attachment: Banc of California Lease (1970 : Amendment No. 2 to Lease with Banc of California)

SP



SP

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 for 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 of 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 or has a pass or is properly identified. Lessee shall have access to the Building and the Premises on a 24/7 basis. 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 Lessees 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 Lessor'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 and at no cost or expense to Lessee, its customers, employees or invitees. 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: 5/26/15
 Lessor's Initials: ZGC

Date: 5-6-15
 Lessee's Initials: SP

EXHIBIT "C"**Waiver and Release.**

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

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

Date: 5-6-15

Lessee's Initials: SP



EXHIBIT "D"

WORK LETTER/REQUIREMENTS FOR IMPROVEMENTS OR ALTERATIONS BY LESSEE

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

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

- A. A separate scale drawing denoting all proposed construction and/or demolition, if necessary.
- B. A separate drawing for each trade proposing structural, electrical, mechanical, civil or landscaping modifications.
- C. Specify all dimensions and complete references to all work to be performed in the affected areas.
- D. If adding extra electrical or mechanical equipment, provide complete operating and maintenance specifications for each item.

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

3. CONTRACTORS PROVIDING INTERIOR IMPROVEMENT SERVICES.

(a) The contractor employed by Lessee and any subcontractors shall be (i) duly licensed in the state in which the Premises are located, and (ii) subject to Lessor's prior written approval, which 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 or outside the Building in a location reasonably approved by Lessor 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) Lessor agrees that it shall contribute an amount equal to the product obtained by multiplying Thirty Dollars (\$30.00) by the number of usable square footage (2,001usf) in the Premises (such amount is sometimes hereinafter referred to as the "Lessee Improvement Allowance") equal to \$60,030 toward the cost of performing Lessee's Work ("Build-Out Cost"), which includes the cost of building materials, labor, permits and fees, architectural fees, design fees, fixtures (except trade fixtures, furniture and equipment (FF&E)) and project management costs. The Lessee Improvement Allowance shall be payable within thirty (30) days from the date Lessee's Work is completed in accordance with the terms of this Lease and Lessee has submitted to Lessor a written statement requesting such payment, provided that at the time of such request and scheduled payment:

- (I) Lessee shall not be in default of this Lease;

- (II) No liens shall have been filed and appropriate waivers, affidavits and releases of lien shall have been received by Lessor covering all work for which payment is requested;
- (III) The certificate of occupancy, if applicable, for the Premises shall have been issued; and
- (IV) Lessee's architect shall have certified in writing to Lessor that Lessee's Work has been completed in accordance with Lessee's Drawings and with applicable laws, ordinances, rules, regulations and codes.

5. CONTRACTORS BONDS.

At Lessors sole discretion, Lessor may require to obtain performance 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, except as shown on the preliminary plans (including the exterior work necessary for the installation of the ATM's, the relocation of the exterior door, modifications to landscaping and hardscape required in connection therewith and the installation of exterior lighting required for the ATM). Lessee will not be allowed to modify building exterior except as shown in the preliminary plans attached to the Lease as Exhibit "E" (including the exterior work necessary for the installation of the ATM's, the relocation of the exterior door, modifications to landscaping and hardscape required in connection therewith and the installation of exterior lighting required for the ATM). or mechanical and electrical service as provided to the building in common with other Lessees.

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

SP

AGC

regular trash removal service.

14.INSPECTION BY LESSOR. 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 Lessee improvements (other than the initial Lessee Improvement Allowance), Lessor shall retain from such funds an amount determined by Lessor until Lessee has fully complied with the requirements hereof.

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

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

Attachment 1 to "Exhibit D"

ITEMS TO BE FURNISHED TO LESSOR FOR EACH WORK OF IMPROVEMENT

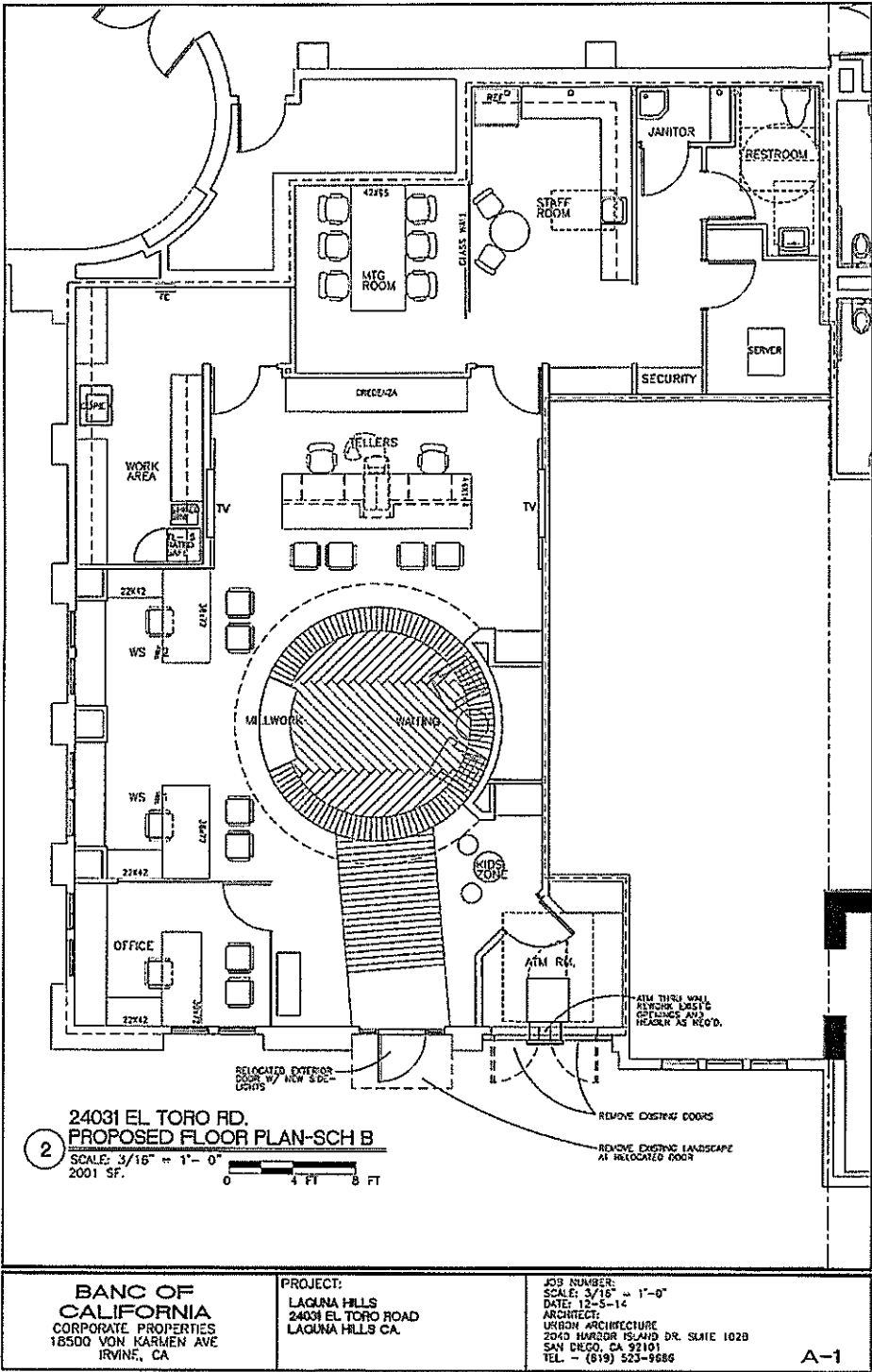
1. Plan of Alterations for Lessor Approval.
2. Contractor(s), Address, Telephone Number, Contact Person.
3. Copy of Contractor's State and City Business License.
4. Copy of Building Permit.
5. Copy of Final Inspection and Signed Building Permit Cards.
6. Copy of Certificate of Insurance Naming The City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

Attachment: Banc of California Lease (1970 : Amendment No. 2 to Lease with Banc of California)




EXHIBIT "E"

APPROVED PRELIMINARY PLANS



Attachment: Banc of California Lease (1970 : Amendment No. 2 to Lease with Banc of California)

AP

RL

**AMENDMENT NO. 1
TO
STANDARD MULTI-TENANT OFFICE LEASE AGREEMENT
Banc of California, a National Association
(Laguna Hills Civic Center Office Building, Suite 100B)**

THIS FIRST AMENDMENT to the Standard Multi-Tenant Office Lease Agreement with Banc of California (the "Amendment") is made and entered into to be effective this 24th day of November 2015, by and between the CITY OF LAGUNA HILLS, a municipal corporation organized and existing under the laws of the State of California, (hereinafter referred to as "Lessor") and BANC OF CALIFORNIA., a National Association, (hereinafter referred to as "Lessee"). Lessor and Lessee are sometimes hereinafter individually referred to as "Party" and are hereinafter collectively referred to as "Parties".

RECITALS

A. Lessor and Lessee previously entered into that certain multi-tenant office lease agreement for the Premises commonly known as ~~24031~~ ²⁴⁰³³ El Toro Road, Suite ~~100B~~ ¹³⁰, consisting of approximately 2,394 square feet, which was made and entered into on April 28, 2015 (the "Lease"), and which may be duly amended, in writing, from time to time by the Parties. Section 46 of the Lease (Amendments) provides that the Lease may be amended in writing at any time by mutual consent of the Parties. Unless otherwise specified herein, capitalized terms used in this Amendment shall have the same meaning as ascribed to them in the Lease.

B. Lessor and Lessee now desire to modify certain terms and conditions of the Lease, as set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, the Parties agree as follows:

AGREEMENT

1. Amendment to Section 1.3, entitled "Term" of the Lease: Section 1.3 of the Lease is hereby amended and restated in its entirety to read as follows:

"1.3 **Term.** Five years and n/a months ("**Original Term**") commencing on November 1, 2015 ("**Commencement Date**") and ending 60 months after commencement ("**Expiration Date**"). (See also Paragraph 3.)"

2. Amendment to Section 53, entitled "Tenant Signage," of the Lease. Section 53 of the Lease is hereby amended and restated in its entirety to read as follows:

"53. **Tenant Signage.** Lessee shall have the right to install and maintain at its sole cost and expense exterior commercial signage advertising Lessee's business name during the Term of this Lease as described, depicted and set forth in Exhibit "A" attached to Lease

Amendment No. 1, which exhibit is incorporated into the Lease as though fully set forth herein and made part of the Lease.” Exhibit “A,” entitled Approved Exterior Commercial Sign Program, is attached to this Amendment and is incorporated herein by reference.

3. Full Force and Effect. This Amendment is supplemental to the Lease and is by reference made part of said Lease. All of the terms, conditions, and provisions, thereof, unless specifically modified herein, shall continue in full force and effect. In the event of any conflict or inconsistency between the provisions of this Amendment and any provisions of the Lease, the provisions of this Amendment shall in all respects govern and control.
4. Recitals. The above-referenced Recitals are hereby incorporated into this Amendment as though fully set forth herein and made part of the Lease and each Party acknowledges and agrees that such Party is bound, for purposes of the Lease, by the same.
5. Corporate Authority. Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Amendment is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Amendment on behalf of the Party for which he/she is signing, (iii) by so executing this Amendment, the Party for which he/she is signing is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which the Party for which he/she is signing is bound.

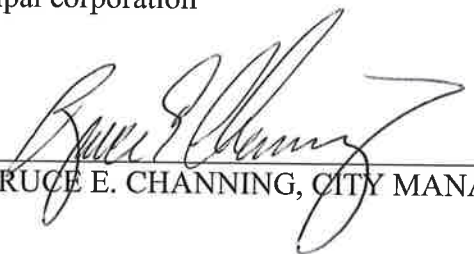
[SIGNATURES ON NEXT PAGE]

Attachment: Amendment No. 1 (1970 : Amendment No. 2 to Lease with Banc of California)

IN WITNESS WHEREOF, the Parties have executed and entered into this Amendment to the Lease as of the date first written above.

"LESSOR"

CITY OF LAGUNA HILLS, a California municipal corporation

By: 
BRUCE E. CHANNING, CITY MANAGER

ATTEST:

By: 
Melissa Au-Yeung, City Clerk

APPROVED AS TO FORM:

By: 
Gregory E. Simonian, City Attorney

"LESSEE"

BANC OF CALIFORNIA, a Nation Association

By: 
Name: MS. SIMA PARSA
Its: Senior Vice President of Corporate
Real Estate and Procurement

Attachment: Amendment No. 1 (1970 : Amendment No. 2 to Lease with Banc of California)

EXHIBIT "A"

APPROVED EXTERIOR COMMERCIAL SIGN PROGRAM

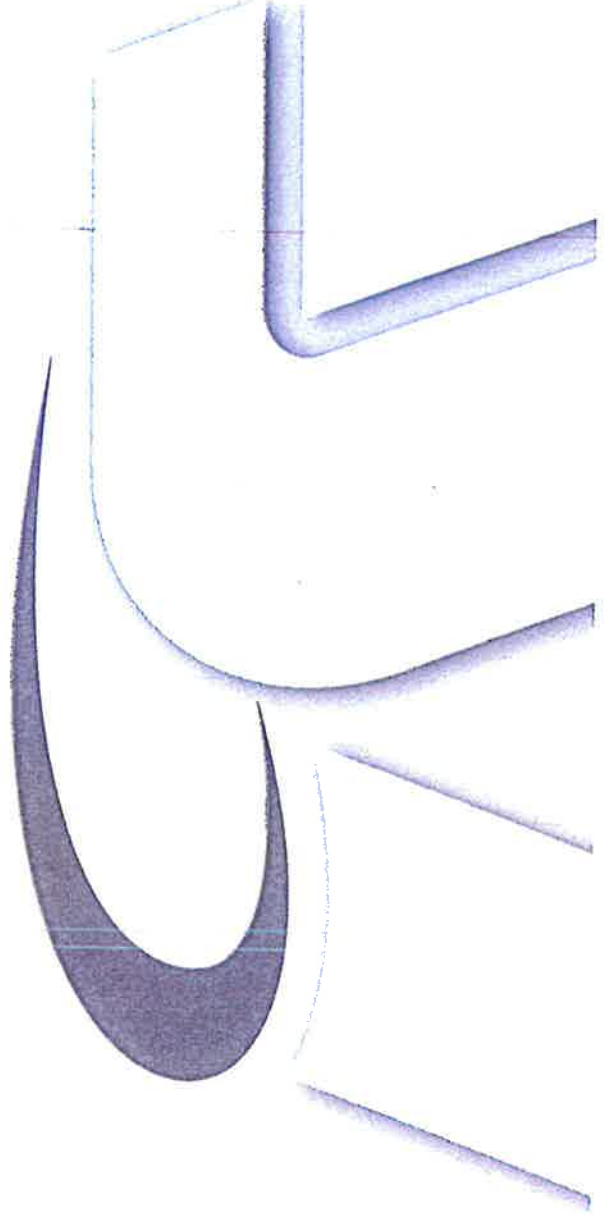
Presented to:

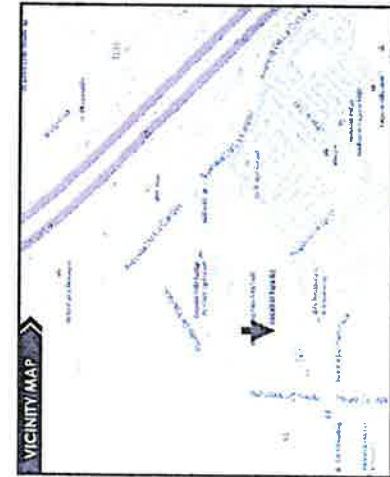


24033 El Toro Road
Suite 130
Laguna Hills, California 92654
150651-09P

INTEGRATED SIGN ASSOCIATES

1160 Pioneer Way, Suite M
El Cajon, California 92020-1944
P | 619.579.2229 F | 619.579.7651
www.isasign.com | info@isasign.com





- LEGEND:**
- (A) EXTERNALLY ILLUMINATED MONUMENT SIGN 3'-4" X 6'-7"
 - (B) NON-ILLUMINATED FCO LETTERS 1 7/8" H LTR. @ 1'-5" OVERALL STRETCHOUT
 - (C) WALDOUIT CHANNEL LOGO LETTERS 2'-3" H LOGO, 10 7/16" H LTR. @ 17'-3 3/8"
 - (D) NON-ILLUMINATED SF * ATM PARKING ONLY* POST & PANEL SIGNS (TYP. OF 2)

ADDRESS:
24033 EL TORO ROAD, STE. 130
LAGUNA HILLS, CA 92654

LEGAL DESCRIPTION:
APN#: 616-031-13
PARCEL MAP BOOK 14
PAGE 24 PARCEL 2

INTEGRATED SIGN ASSOCIATES
1160 Pioneer Way, Suite M
El Cajon, California 92020-1944
P | 619.579.2229 F | 619.579.7851
www.issign.com | info@issign.com

Project No.: **150651-09P**
Project:

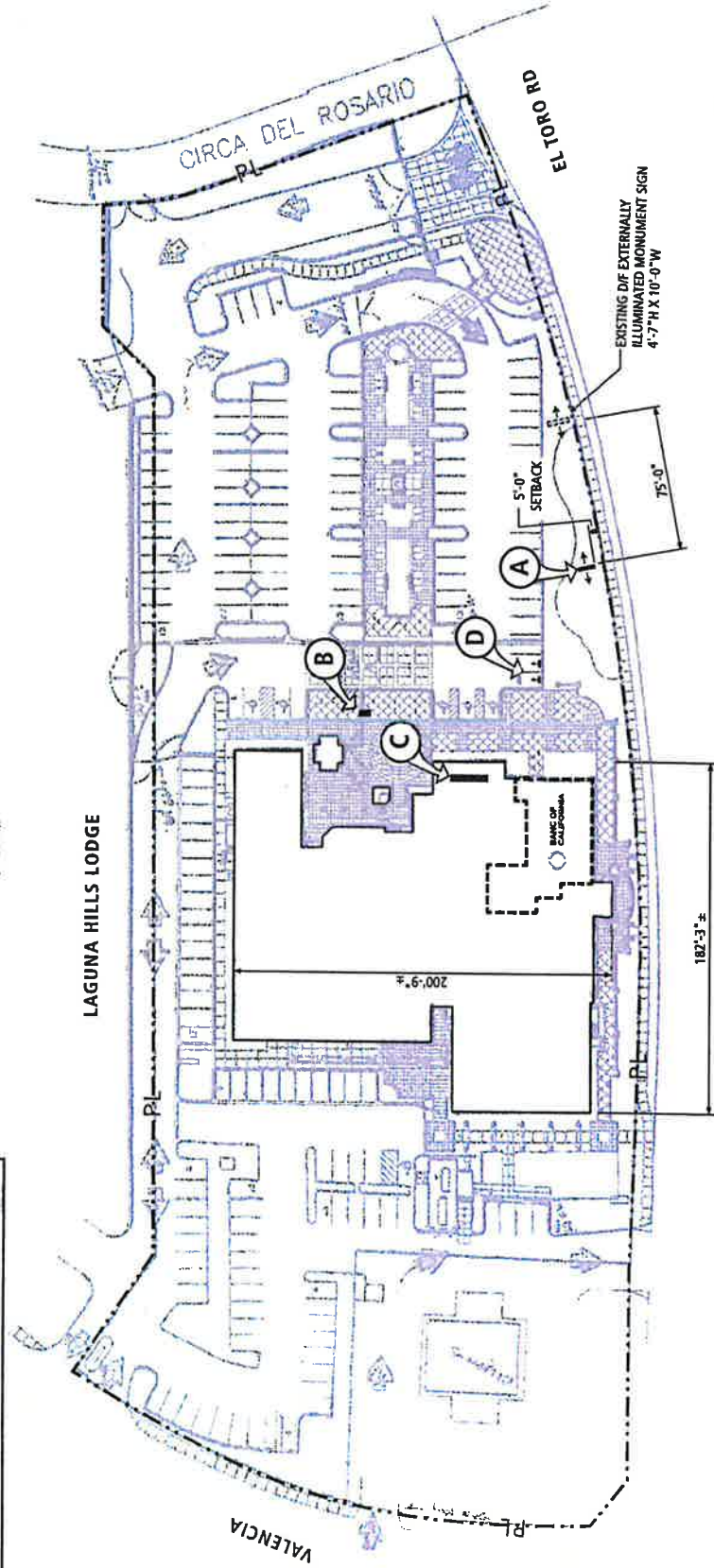
BANC OF CALIFORNIA

24033 El Toro Road
Suite 130
Laguna Hills, CA 92654
Customer Approval:

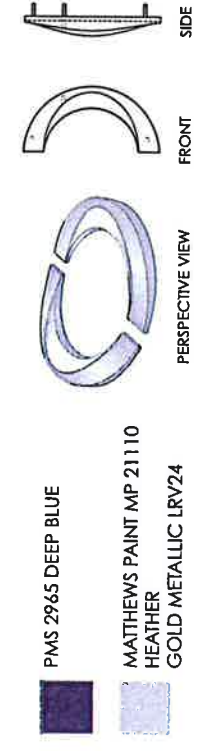
Date:
Revision:
1A - rev. layout signs 11/12/15

ORIGINAL CONCEPT
This design is the exclusive property of Integrated Sign Associates and cannot be reproduced in whole or part without their prior written consent.

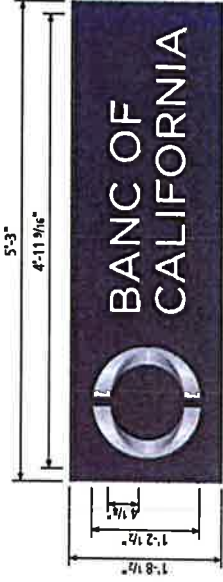
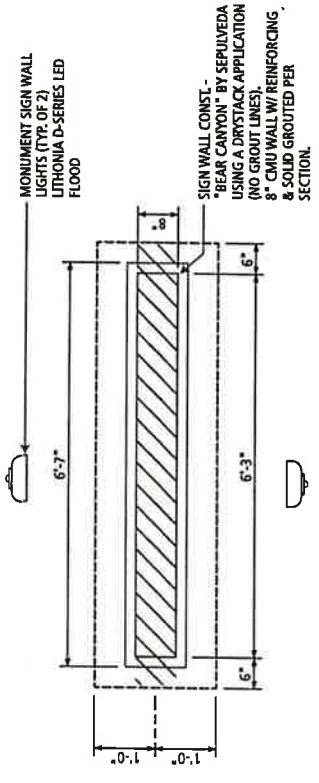
Salesman: Aaron Clippinger
Designer: AmieM.
Date: August 05, 2015
Scale: As noted
Sheet No.: **1/6**



SITE PLAN
SCALE: 1" = 60'-0"



PMS 2965 DEEP BLUE
MATTHEWS PAINT MP 21110
HEATHER
GOLD METALLIC LRV24

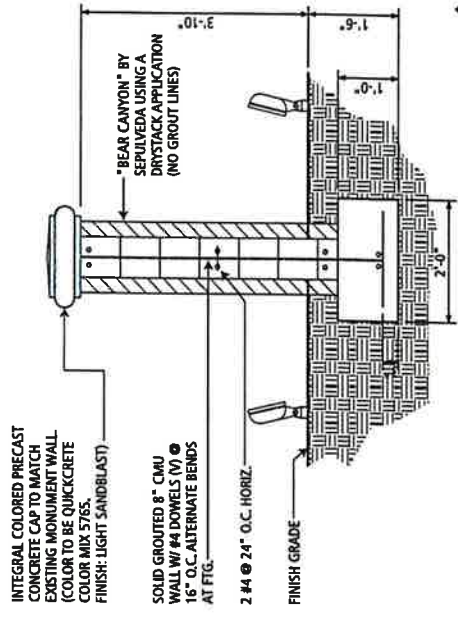
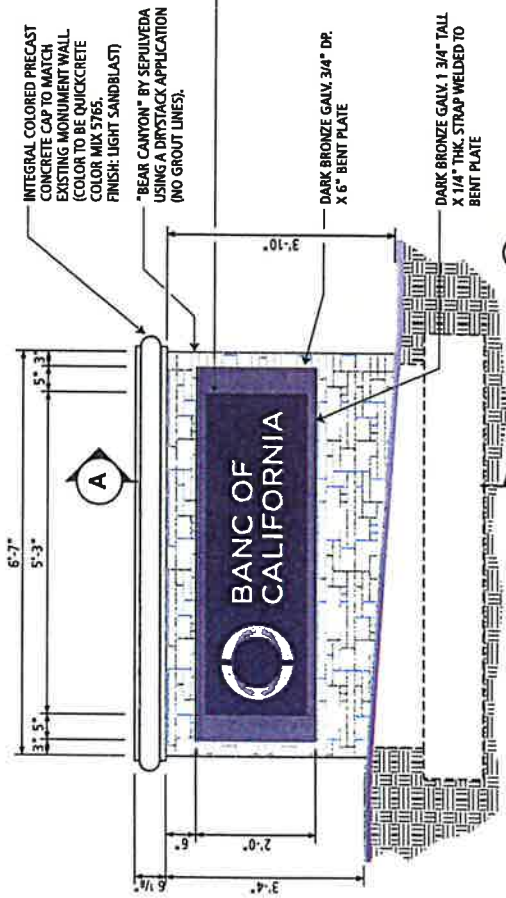


BACKGROUND PANEL:
0.090" THK ALUMINUM BACKGROUND PANEL PAINTED TO MATCH PMS 2965 DEEP BLUE.

LOGO -
PRISMATIC SHAPE CARVED HDX LOGO. ALL ELEMENTS SANDED AND FILED FOR SMOOTH, BURR-FREE FINISH. FACES & EDGES PAINTED TO MATCH MATTHEWS HEATHER GOLD METALLIC.

INSTALL - 2" STUD MOUNT W/ 3/8" STAND-OFF FROM BACKGROUND PANEL.

LETTERS -
3/8" THK FCO WHITE ACRYLIC LETTERS. STUD MOUNT W/ 1/4" STAND-OFF FROM BACKGROUND PANEL.



INTEGRATED SIGN ASSOCIATES
1160 Plover Way, Suite M
El Cajon, California 92020-1944
P | 619.579.7229 F | 619.579.7651
www.isasign.com | info@isasign.com

Project No. 150651-09P

Project:



24033 El Toro Road
Suite 130
Laguna Hills, CA 92654

Customer Approval:

Date:

Revisions:

- 8.9.15 OL - revised to new monument
- 10.22.15 OL - revised size of mon
- 11.12.15 OL - revised spec. per city

ORIGINAL CONCEPT

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Schematic: Aaron Clippinger

Designer: AmielM.

Date: August 05, 2015

Scale: As noted

Sheet No.:

2/6

3.7.c

EXTERNALLY ILLUMINATED MONUMENT SIGN

1/2" = 1'-0"

Project No: 150651-09P

Project:



24033 El Toro Road
 Suite 130
 Laguna Hills, CA 92654

Customer Approval:

Date:

Revision:

9.9.15 OL - revised to new monument
11.17.15 OL - revised specs. per city

ORIGINAL CONCEPT

This design is the exclusive property of Integrated Sign Associates and is not to be reproduced in whole or in part without their prior written consent.

Salesman: Aaron Clippinger

Designer: AmieM.

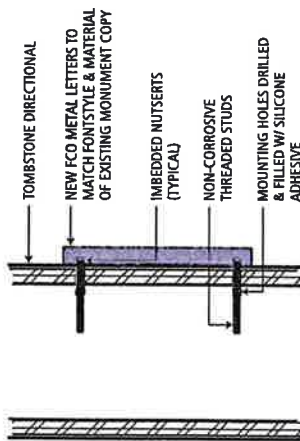
Date: August 05, 2015

Scale: As noted

Sheet No.: **3 / 6**

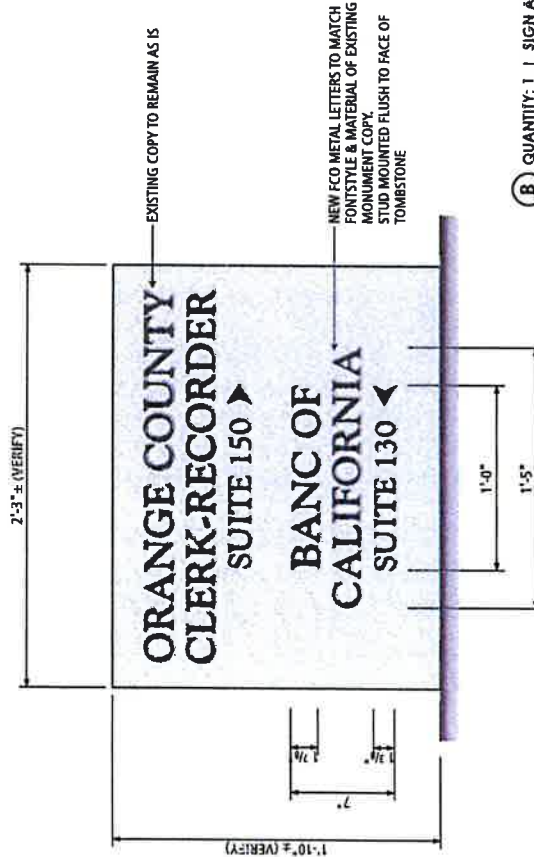


EXISTING TOMBSTONE SIGN



SECTION DETAIL

SCALE: 3" = 1'-0"



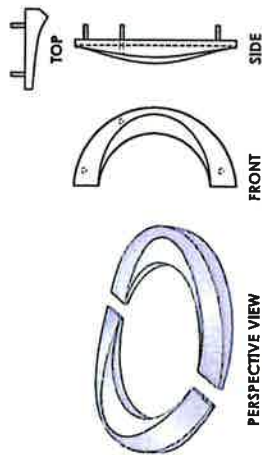
(B) QUANTITY: 1 | SIGN AREA: 0.83 SF

ACTIONS REQUIRED:

- ☐ NEED EXISTING COPY MATERIAL & COLOR.
 - NO INFO ON REQUEST.
- ☐ NEED SIZES OF EXISTING COPY & ARROW.
 - NO INFO ON REQUEST.

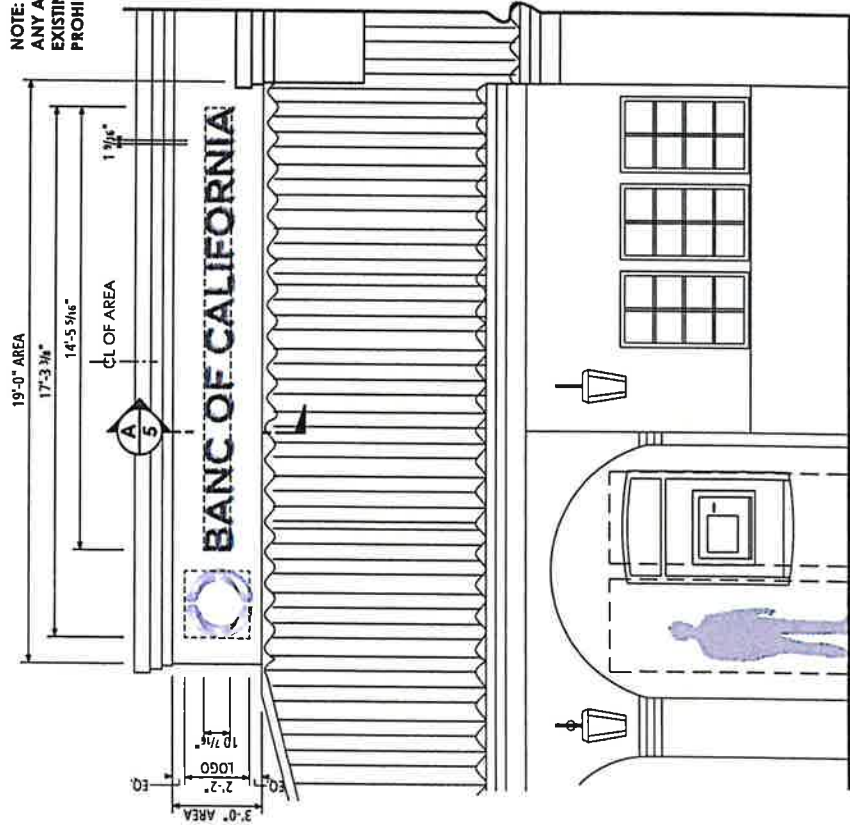
NON-ILLUMINATED FCO LETTERS

SCALE: 1 1/2" = 1'-0"

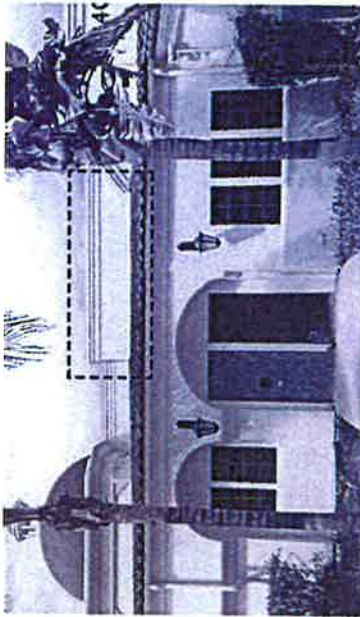


PMS 2965 DEEP BLUE
MATTHEW'S PAINT
MP 21110 HEATHER
GOLD METALLIC LRV24

NOTE:
ANY ALTERATIONS TO
EXISTING CORNICES IS
PROHIBITED



HALO-LIT CHANNEL LOGO/LETTERS @ EAST ELEVATION
SCALE: 1/4" = 1'-0"



PARTIAL EAST ELEVATION

LOGO:
2.16 X 2.16 = 4.65
LETTERS:
.8498 X 14.44 = 12.5
SIGN AREA: 17.15 SF

QUANTITY: 1 SET | SIGN AREA: 17.15 SF

- LOGO - PRISMATIC SHAPE CARVED HDI LOGO FACE (DEPTH VARIES).
- FINISH - POWDER COATED FACES & EDGES TO MATCH MATTHEW'S HEATHER GOLD METALLIC (SATIN FINISH).
- BACKS - 3/16" THK. CLEAR POLYCARBONATE BACKS W/ WHITE DIFFUSER FILM.
- ILLUM. - LOW VOLTAGE 6500K WHITE LED ILLUMINATION (HALO-ILLUM).
- INSTALL - STAND-OFF 1" FROM WALL SURFACE AS PER DETAIL.
- LETTERS - 3" DP FABRICATED ALUMINUM LETTERS.
- FINISH - FACE & EDGES PAINTED TO MATCH PMS 2965 DEEP BLUE (SATIN FINISH).
- BACKS - 3/16" THK. CLEAR POLYCARBONATE BACKS W/ WHITE DIFFUSER FILM.
- ILLUM. - LOW VOLTAGE 6500K WHITE LED ILLUMINATION (HALO-ILLUM).
- INSTALL - STAND-OFF 1" FROM WALL SURFACE AS PER DETAIL.

INTEGRATED SIGN ASSOCIATES
1160 Pioneer Way, Suite M
El Cajon, California 92020-1944
P | 619.579.2229 F | 619.579.6551
www.isasign.com | info@isasign.com

Project No. **150651-09P**
Project:

BANC OF CALIFORNIA

24033 El Toro Road
Suite 130
Laguna Hills, CA 92654

Customer Approval:

Date:

Revision:
added letters - OL 11.13.15
TA - omit opt "A" 11.13.15
11.17.15 OL - revised specs per city

ORIGINAL CONCEPT
This design is the exclusive property of Integrated Sign Associates and cannot be reproduced in whole or in part without their prior written consent.

Salesman: Aaron Clippinger
Designer: ArnieM.
Date: August 05, 2015
Scale: As noted
Sheet No.: **4/6**

Project No: **150651-09P**

Project:



BANC OF CALIFORNIA
 24033 El Toro Road
 Suite 130
 Laguna Hills, CA 92654

Customer Approval:

Date:

Revision:

added detail - OL	11.11.15
revised section	11.17.15

ORIGINAL CONCEPT

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Salesman: Aaron Clippinger

Designer: ArnieM.

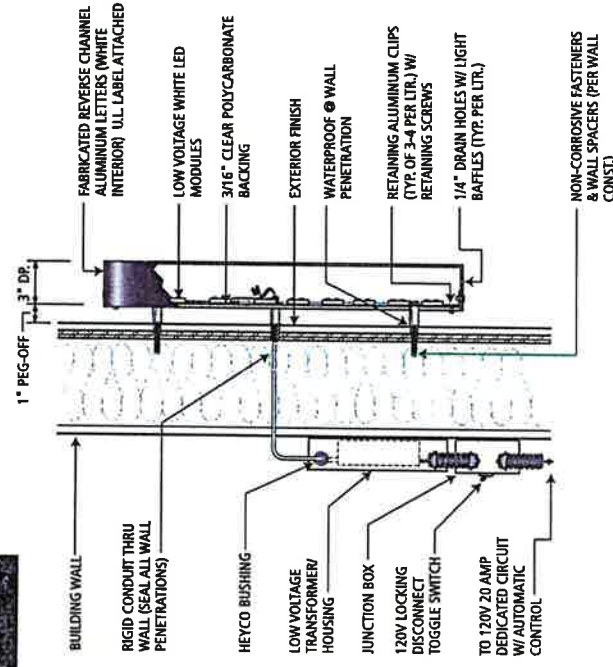
Date: August 05, 2015

Scale: As noted

Sheet No.:

5 / 6

NOTE: THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.



LETTER SECTION DETAIL
 SCALE: 1 1/2" = 1'-0"

Project No: **150651-09P**

Project:



24033 El Toro Road
 Suite 130
 Laguna Hills, CA 92654

Customer Approval:

Date:

Revisions:	11.11.15
1. 01-added directional	11.11.15
2. 1A - remove "5 min"	11.12.15
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

ORIGINAL CONCEPT

This design is the exclusive property of Integrated Sign Associates and cannot be reproduced in whole or part without their prior written consent.

Salesman: Aaron Clippinger

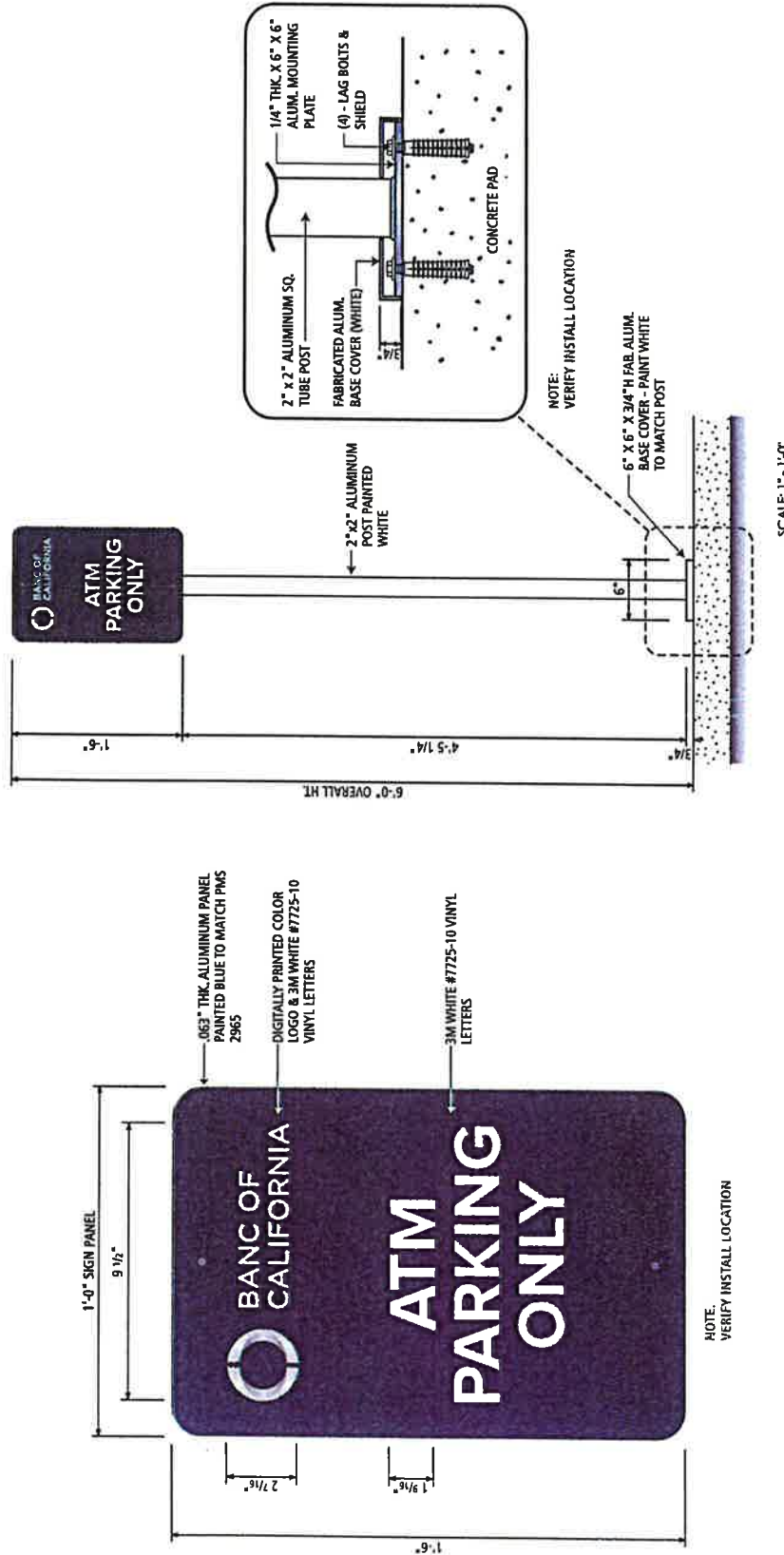
Designer: ArnieM.

Date: August 05, 2015

Scale: AS noted

Sheet No.:

6/6



NEW SIGN PANEL & POST

SCALE: 3" = 1'-0"

D QUANTITY: 2



BANC OF
CALIFORNIA

November 20, 2015

Donald J. White, Assistant City Manager
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

VIA PERSONAL DELIVERY

Re: Banc of California, National Association –Laguna Hills Branch Signage

Dear Mr. White:

Enclosed for your handling are the following:

- Item (1) Three (3) original signed copies of Amendment No. 1 dated November 24, 2015 by and between Banc of California, National Association (“BOC”) and the City of Laguna Hills (“Amendment No. 1”), which amends a Standard Multi-Tenant Office Lease Agreement dated November 24, 2015. The originals have been signed by authorized officers of BOC.
- Item (2) A signage package (referred to as “Exhibit A”) BOC expects will be approved by the Laguna Hills City Council at its November 24, 2015 meeting and after that approval, would be attached as Exhibit A to Amendment No. 1.

Please be advised that BOC is delivering the three (3) original signed copies of Amendment No. 1 to be held in escrow by you. If the signage package enclosed herein as Item (2) is approved by the Laguna Hills City Council and attached “as is” to Amendment No. 1, then BOC hereby authorizes the immediate release of BOC’s three (3) original signature pages from escrow and agrees that Amendment No. 1 will be immediately effective.

However, if the signage package enclosed herein as Item (2) is not approved substantially “as is,” by the Laguna Hills City Council, then BOC will consider Amendment No. 1 to be void and directs you to return all enclosed documents to the undersigned, including the three (3) original signature pages.

If you have any questions, please contact the undersigned at (949) 381-2867 or angelee.harris@bancofcal.com.

Very truly yours,

Angelee J. Harris
Division General Counsel
Banc of California, National Association

Enclosures

Attachment: Amendment No. 1 (1970 : Amendment No. 2 to Lease with Banc of California)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Assistant City Manager/Director of Public Services

ISSUE: Cooperative Agreement No. C-9-1420 Between the Orange County Transportation Authority and the Cities of Irvine, Laguna Hills and Lake Forest for the Lake Forest Drive Regional Traffic Signal Synchronization Program Project

RECOMMENDATION: That the City Council approve Cooperative Agreement No. C-9-1420 with the Orange County Transportation Authority for the Lake Forest Drive Regional Traffic Signal Synchronization Program Project and authorize the Mayor to sign the Agreement.

SUMMARY:

Renewed Measure M (M2) provides funding opportunities through Project P for cities to collectively work on Regional Traffic Signal Synchronization Program (RTSSP) projects on arterial highways on a three-year return cycle. The Orange County Transportation Authority (OCTA) has approved a Project P grant for the Lake Forest Drive RTSSP with the cities of Laguna Hills, Lake Forest and Irvine. OCTA has agreed to lead the project team and has issued a Cooperative Agreement to effectuate the project. Approval of Cooperative Agreement No. C-9-1420 for the Lake Forest Drive Regional Traffic Signal Synchronization Program Project is recommended.

BACKGROUND:

On behalf of the cities through which Lake Forest Drive traverses, the City of Lake Forest submitted a 2019 application to OCTA for Renewed Measure M Project P funding of the Lake Forest Drive RTSSP project. OCTA has recently granted the funding of this project

Cooperative Agreement with OCTA No. C-9-1420 Lake Forest RTSSP
October 8, 2019
Page 2

and has also agreed to be the lead entity for this multi-agency project through the adoption of a Cooperative Agreement. As described in the attached Cooperative Agreement No. C-9-1420, OCTA will procure the consultant and contract services to implement updated traffic signal timing, synchronization and improvements along this arterial highway.

The cities of Laguna Hills, Lake Forest and Irvine are each participating in this project to improve traffic flow along this arterial highway. As further described in the Fiscal Impact section below, each city will contribute a 20% match to the project.

In addition to traffic signal timing and synchronization improvements along Lake Forest Drive, the four involved Laguna Hills traffic signals (at Del Lago Drive, at Moulton Parkway, at Mill Creek Drive and at Santa Vittoria Drive) will receive new controllers, new pedestrian signal countdown heads and new audible pedestrian buttons for the vision impaired pedestrian.

The Lake Forest Drive RTSSP project is expected to be implemented during the 2020 calendar year and then will be under a three-year monitoring program. The Cooperative Agreement is scheduled to run through December 2024. Approval of the Cooperative Agreement is recommended.

CEQA FINDINGS:

In accordance with Cooperative Agreement No. C-9-1420, OCTA accepts the responsibility for CEQA compliance.

FISCAL IMPACT:

The Lake Forest Drive RTSSP project has an estimated total cost of consultant services and field improvements of \$1,802,455. The cities participating in this project are responsible for a 20% match of this cost. The Laguna Hills share of the match is estimated to be \$40,588. Funds are available for this project in the Traffic Signal Synchronization Capital Improvement Project, CIP No. 168-K.

ATTACHMENTS:

- Cooperative Agreement No. C-9-1420

COOPERATIVE AGREEMENT NO. C-9-1420

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

CITIES OF IRVINE, LAGUNA HILLS, AND LAKE FOREST

FOR

LAKE FOREST DRIVE REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM PROJECT

THIS COOPERATIVE AGREEMENT (Agreement), is effective this _____ day of _____, 2019 ("Effective Date"), by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange California 92863-1584, a public corporation of the State of California (herein referred to as "AUTHORITY") and the cities of Irvine, Laguna Hills, and Lake Forest (hereinafter referred to as "PARTICIPATING AGENCIES") each individually known as "Party" and collectively known as the "Parties".

RECITALS:

WHEREAS, the AUTHORITY in cooperation with the PARTICIPATING AGENCIES is working together in coordinating traffic signals across multiple jurisdictional boundaries as a part of the Renewed Measure M (M2) Regional Traffic Signal Synchronization Program (RTSSP or Project P) to enhance countywide traffic flow and reduce congestion; and

WHEREAS, the AUTHORITY has completed the competitive 2019 Call for Projects (hereinafter, "2019 CALL") in support of Project P and awarded Project P funds based on the application (hereinafter, "APPLICATION") prepared by the City of Lake Forest (hereinafter referred to as the "APPLICANT AGENCY") for implementation of signal synchronization of traffic signals along Lake Forest Drive between the intersections of Portola Parkway located in the City of Lake Forest and Romano/Hidden Canyon located in the City of Irvine (hereinafter, "PROJECT"); and

/

/

**COOPERATIVE AGREEMENT NO. C-9-1420
LAKE FOREST DRIVE – RTSSP**

1 **WHEREAS**, the PARTICIPATING AGENCIES in their approved APPLICATION have elected to
2 designate the AUTHORITY and the AUTHORITY agrees to act as the implementing agency to carry out
3 PROJECT; and

4 **WHEREAS**, the PROJECT will include approximately twenty-seven (27) traffic signalized
5 intersections as identified in the APPLICATION; and

6 **WHEREAS**, the PROJECT will include Intelligent Transportation System (ITS) elements
7 identified in the APPLICATION including certain hardware and software upgrades to intersection and
8 central control systems including Advanced Transportation Controller units (ATC), telematics and
9 interconnect systems, Advanced Transportation Management Systems (ATMS), Roadside Units
10 (RSU), and other associated systems (hereinafter collectively referred to as "ITS ELEMENTS"), will
11 be constructed and/or installed and implemented as part of the PROJECT as identified in the
12 APPLICATION; and

13 **WHEREAS**, the AUTHORITY agrees to work with PARTICIPATING AGENCIES to coordinate
14 the inclusion of other ITS elements (hereinafter OTHER ELEMENTS) that should be installed at the
15 same time as the construction of the PROJECT and are not part of this Agreement; and

16 **WHEREAS**, all costs associated with the inclusion of these OTHER ELEMENTS, if any, are
17 the sole responsibility of the AGENCY owning each and any of those OTHER ELEMENTS during the
18 course of the project; and

19 **WHEREAS**, AUTHORITY and each respective Party acknowledge and understand that
20 in-house resources (staff) from Party will provide various services for PROJECT, and

21 **WHEREAS**, AUTHORITY and each respective Party acknowledge and understand that
22 PROJECT costs for various types of additional work required by each respective Party, by its staff, or
23 by policy, may not have been included in the original application and therefore costs to contractors or
24 consultants to comply with staff requirements are not included in the PROJECT allocation; and

25 /

26 /

**COOPERATIVE AGREEMENT NO. C-9-1420
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1 **WHEREAS**, AUTHORITY and Parties agree that these costs will be paid by PROJECT; and
2 **WHEREAS**, Parties and each respective Party acknowledge and understand that the costs for
3 the additional work may be reversed by AUTHORITY's Audit; and

4 **WHEREAS**, based on AUTHORITY's Board of Directors approved PROJECT ALLOCATION and
5 APPLICATION, the AUTHORITY agrees to implement the PROJECT; and

6 **WHEREAS**, the PARTICIPATING AGENCIES per the M2 Ordinance, agree to provide
7 PROJECT funding in a combined cash and in-kind services match of Three Hundred Sixty Thousand
8 Four Hundred and Eleven Dollars (\$360,411.00), as shown in Attachment A, or equivalent to at least
9 twenty percent (20%) of PROJECT cost; and

10 **WHEREAS**, the AUTHORITY and the PARTICIPATING AGENCIES desire to enter into this
11 Agreement to implement the PROJECT in support of Project P; and

12 **WHEREAS**, this Agreement defines the specific terms, conditions, and funding responsibilities
13 between the AUTHORITY and the PARTICIPATING AGENCIES for the implementation of the
14 PROJECT; and

15 **WHEREAS**, the AUTHORITY's Board of Directors authorized funding for the PROJECT on
16 June 10, 2019; and

17 **WHEREAS**, the AUTHORITY's Board of Directors authorized this cooperative agreement on the
18 August 12, 2019.

19 **WHEREAS**, the City of Irvine's City Council approved this Agreement on the ____ day of
20 _____, 20____.

21 **WHEREAS**, the City of Laguna Hills' City Council approved this Agreement on the ____ day
22 of _____, 20____.

23 **WHEREAS**, the City of Lake Forest's City Council approved this Agreement on the ____ day
24 of _____, 20____.

25 **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and the
26 PARTICIPATING AGENCIES as follows:

COOPERATIVE AGREEMENT NO. C-9-1420
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ARTICLE 1. COMPLETE AGREEMENT

A. This Agreement, including any attachments incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the term(s) and conditions(s) of this Agreement between AUTHORITY and PARTICIPATING AGENCIES and it supersedes all prior representations, understandings, and communications. The invalidity in whole or in part of any term or condition of this Agreement shall not affect the validity of other term(s) or conditions(s) of this Agreement. The above referenced Recitals are true and correct and are incorporated by reference herein.

B. AUTHORITY's failure to insist on any instance(s) of PARTICIPATING AGENCIES' performance of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment of AUTHORITY's right to such performance or to future performance of such term(s) or condition(s), and PARTICIPATING AGENCIES' obligation in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written amendment to this Agreement and issued in accordance with the provisions of this Agreement.

C. PARTICIPATING AGENCIES' failure to insist on any instance(s) of AUTHORITY's performance of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment of PARTICIPATING AGENCIES' right to such performance or to future performance of such term(s) or condition(s), and AUTHORITY's obligation in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall not be binding upon PARTICIPATING AGENCIES except when specifically confirmed in writing by an authorized representative of PARTICIPATING AGENCIES by way of a written amendment to this Agreement and issued in accordance with the provisions of this Agreement.

ARTICLE 2. SCOPE OF AGREEMENT

This Agreement specifies the roles and responsibilities of the Parties as they pertain to the subjects and projects addressed herein. Both AUTHORITY and PARTICIPATING AGENCIES agree /

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that each will cooperate and coordinate with the other in all activities covered by this Agreement and any other supplemental agreements that may be required to facilitate purposes thereof.

ARTICLE 3. RESPONSIBILITIES OF AUTHORITY

AUTHORITY agrees to the following responsibilities for funding of the PROJECT:

A. AUTHORITY shall implement the PROJECT based on the intent of the usage in the APPLICATION prepared by the APPLICANT AGENCY in accordance with the policies and procedures contained in the Comprehensive Transportation Funding Program (CTFP) guidelines.

B. AUTHORITY shall provide oversight to maintain inter-jurisdictional traffic signal operational integrity between PROJECT and other similar type projects not older than three (3) years.

C. AUTHORITY will act as the LEAD AGENCY and provide and file all documentation necessary to comply with California Environmental Quality Act (CEQA) regulations for PROJECT.

D. AUTHORITY shall perform web-based public outreach activities for the project to communicate major project milestones and results.

E. AUTHORITY shall provide formats, templates, and guidance in reporting requirements as described in CTFP.

F. AUTHORITY, or agents of AUTHORITY, under this Agreement and upon closeout of PROJECT, may perform a technical and/or field review to ensure that the CTFP guidelines, policies, and procedures were followed. Such a review may be performed one hundred and eighty (180) days after the PROJECT three-year grant period is complete. If the technical and or field review determines that any of the activities performed are ineligible for CTFP funding, PARTICIPATING AGENCIES must reimburse and return the amount of funding used to perform the ineligible activity to AUTHORITY.

G. AUTHORITY shall invoice the PARTICIPATING AGENCIES as identified in APPLICATION and Attachment A for the dollar cash match at the end of the Primary Implementation phase or at a mutually agreed upon time to facilitate any respective AGENCY funding timeframes.

H. AUTHORITY shall request updates for the PROJECT as part of semi-annual review process, including documentation of in-kind match conforming to Attachment A and will include the

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PROJECT in the list of active projects in OC Fund Tracker until completion of the three-year grant period.
Documents to be provided include, but are not limited to, payroll records, contracts, and purchase orders.

ARTICLE 4. RESPONSIBILITIES OF THE AUTHORITY AS PROJECT LEAD AGENCY

The AUTHORITY as the LEAD AGENCY agrees to the following responsibilities for the implementation of the PROJECT:

- A. AUTHORITY shall act as the LEAD AGENCY for the work necessary to manage, procure, and complete the PROJECT as identified in APPLICATION.
- B. To coordinate outreach with PARTICIPATING AGENCIES for PROJECT.
- C. To collect all data necessary to provide new optimized timing plans including, but not limited to, manual or video all movement counts at each PROJECT signalized intersection, and a mutually agreed upon number and location of twenty-four (24) hour / seven (7) day automated machine traffic counts with vehicle classification.
- D. To develop and implement new timing plans optimized for signal synchronization.
- E. To provide updated timing plans for all control systems and all relevant data used to develop said plans to PARTICIPATING AGENCIES.
- F. To prepare a "Before and After Study" for PROJECT as described in the Measure M2 Eligibility Guidelines adopted by the AUTHORITY. The "Before and After Study" for the project is considered the equivalent of the required Project Final Report (Measure M2 Ordinance No. 3, Section B.III.9) for PROJECT. The AUTHORITY shall provide the "Before and After Study" to the PARTICIPATING AGENCIES in draft and final formats for review and comment. AGENCY comments shall be noted in the final study. If specified in APPLICATION, AUTHORITY shall provide a "Before and After Study" video of a representative portion of PROJECT at up to two (2) public meetings.

ARTICLE 5. RESPONSIBILITIES OF THE PARTICIPATING AGENCIES

PARTICIPATING AGENCIES agree to the following responsibilities for implementation and funding of PROJECT:

**COOPERATIVE AGREEMENT NO. C-9-1420
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1 A. Provide a technical representative to meet and participate as a member of the
2 PROJECT's Traffic Forum.

3 B. To authorize the AUTHORITY to manage, procure, and implement all aspects of
4 PROJECT.

5 C. To participate and support PROJECT implementation within the timeframe outlined in
6 APPLICATION and consistent with the CTFP Guidelines adopted by AUTHORITY.

7 D. To provide AUTHORITY all current intersection as-built drawings, all current
8 intersections controller assembly plans as provided by the manufacturer and modified by Party since
9 original installation, local field master, local controller, and ATMS timing plans and other ITS related
10 data upon request.

11 E. To provide the local cash match and/or documentation for the in-kind services match
12 for PROJECT in accordance with Attachment A. Failure to provide local cash match and or evidence
13 of in-kind services match may result in the loss of future participation for competitive funding
14 opportunities.

15 F. PARTICIPATING AGENCIES that have included a dollar match as identified in
16 Attachment A shall provide payment for the dollar match to AUTHORITY within thirty (30) calendar
17 days of receipt of an invoice.

18 G. PARTICIPATING AGENCIES that have included an in-kind services match as identified
19 in Attachment A shall provide documentation of conformance as part of the semi-annual review process
20 or as requested by the AUTHORITY.

21 H. To waive all fees associated with any local agency permits that may be required of the
22 consultant, sub consultants, and/or service or equipment providers in the performance of the PROJECT.

23 I. PARTICIPATING AGENCIES shall provide updates on PROJECT to AUTHORITY as
24 part of semi-annual review process until completion of the three-year PROJECT grant period. Documents
25 to be provided include, but are not limited to, payroll records, contracts, and purchase orders.

26 /

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J. PARTICIPATING AGENCIES shall, if specified in APPLICATION, continue Ongoing Operations and Maintenance after the three-year grant period is complete and continue until the end of the PROJECT per additional maintenance of effort in APPLICATION.

ARTICLE 6. DELEGATED AUTHORITY

The actions required to be taken by PARTICIPATING AGENCIES in the implementation of this Agreement are delegated to their respective City Manager, or designee, and the actions required to be taken by AUTHORITY in the implementation of this Agreement are delegated to AUTHORITY's Chief Executive Officer or designee.

ARTICLE 7. AUDIT AND INSPECTION

AUTHORITY and PARTICIPATING AGENCIES shall maintain a complete set of records in accordance with generally accepted accounting principles. Upon reasonable notice, PARTICIPATING AGENCIES shall permit the authorized representatives of AUTHORITY to inspect and audit all work, materials, payroll, books, accounts, and other data and records of PARTICIPATING AGENCIES for a period of five (5) years after final payment, final closeout, or until any on-going audit is completed, whichever is later. For purposes of audit, the date of completion of this Agreement shall be the date of AUTHORITY's payment of consultant's final billing (so noted on the paid invoice) under this Agreement. AUTHORITY shall have the right to reproduce any such books, records, and accounts. The above provision with respect to audits shall extend to and/or be included in contracts with PARTICIPATING AGENCIES' contractor.

ARTICLE 8. INDEMNIFICATION

A. To the fullest extent permitted by law, PARTICIPATING AGENCIES shall defend (at PARTICIPATING AGENCIES' sole cost and expense with legal counsel reasonably acceptable to AUTHORITY), indemnify, protect, and hold harmless AUTHORITY, and its officers, directors, employees, and agents (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not

COOPERATIVE AGREEMENT NO. C-9-1420
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1 limited to Claims arising from injuries to or death of persons (PARTICIPATING AGENCIES' employees
2 included), for damage to property, including property owned by AUTHORITY, or from any violation of any
3 federal, state, or local law or ordinance, alleged to be caused by the negligent acts, omissions or willful
4 misconduct of PARTICIPATING AGENCIES, its officers, directors, employees or agents in connection
5 with or arising out of the performance of this Agreement.

6 B. To the fullest extent permitted by law, AUTHORITY shall defend (at AUTHORITY's sole
7 cost and expense with legal counsel reasonably acceptable to PARTICIPATING AGENCIES), indemnify,
8 protect, and hold harmless PARTICIPATING AGENCIES, including their officers, directors, employees,
9 and agents (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits,
10 claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders,
11 penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not
12 limited to Claims arising from injuries to or death of persons (AUTHORITY's employees included), for
13 damage to property, including property owned by PARTICIPATING AGENCIES, or from any violation of
14 any federal, state, or local law or ordinance, alleged to be caused by the negligent acts, omissions or
15 willful misconduct of AUTHORITY, its officers, directors, employees or agents in connection with or arising
16 out of the performance of this Agreement.

17 C. The indemnification and defense obligations of this Agreement shall survive its expiration
18 or termination.

19 **ARTICLE 9. ADDITIONAL PROVISIONS**

20 A. Term of Agreement: This Agreement shall be in full force and effect through
21 December 31, 2024.

22 B. Amendment: This Agreement may be extended or amended in writing at any time by the
23 mutual consent of all Parties and AUTHORITY. No amendment shall have any force or effect unless
24 executed in writing by all Parties and AUTHORITY.

25 C. Termination: In the event any Party defaults in the performance of their respective
26 obligations under this Agreement or breaches any of the provisions of this Agreement, a non-defaulting

COOPERATIVE AGREEMENT NO. C-9-1420
LAKE FOREST DRIVE – RTSSP

1 Party(s) shall have the option to terminate this Agreement upon thirty (30) calendar days prior written
2 notice to the Party in default.

3 D. Termination for Convenience: Either Party may terminate this Agreement for its
4 convenience by providing thirty (30) calendar days prior written notice of its intent to terminate for
5 convenience to the other Party.

6 E. AUTHORITY and PARTICIPATING AGENCIES shall comply with all applicable federal,
7 state, and local laws, statues, ordinances and regulations of any governmental authority having
8 jurisdiction over the PROJECT.

9 F. Legal Authority: AUTHORITY and PARTICIPATING AGENCIES hereto consent that they
10 are authorized to execute this Agreement on behalf of said Parties and that, by so executing this
11 Agreement, the Parties hereto are formally bound to the provisions of this Agreement.

12 G. Severability: If any term, provision, covenant or condition of this Agreement is held to be
13 invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the
14 remainder of this Agreement shall not be affected thereby, and each term, provision, covenant or
15 condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16 H. Counterparts of Agreement: This Agreement may be executed and delivered in any
17 number of counterparts, each of which, when executed and delivered shall be deemed an original and all
18 of which together shall constitute the same agreement. Facsimile signatures shall be permitted.

19 I. Assignment: Neither this Agreement, nor any of the Parties' rights, obligations, duties, or
20 authority hereunder may be assigned in whole or in part by either Party without the prior written consent
21 of the other Party in its sole and absolute discretion. Any such attempt of assignment shall be deemed
22 void and of no force and effect. Consent to one assignment shall be deemed consent to any subsequent
23 assignment, nor the waiver of any right to consent to such subsequent assignment.

24 J. Governing Law: The laws of the State of California and applicable local and federal laws,
25 regulations and guidelines shall govern this Agreement.

26 /

**COOPERATIVE AGREEMENT NO. C-9-1420
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K. Litigation fees: Should litigation arise out of this Agreement for the performance thereof, the court shall award costs and expenses, including attorney's fees, to the prevailing Party.

L. Notices: Any notices, requests, or demands made between the Parties pursuant to this Agreement are to be directed as follows:

To IRVINE:	To AUTHORITY:
City of Irvine	Orange County Transportation Authority
1 Civic Center Plaza	550 South Main Street
Irvine, CA 92606	P. O. Box 14184
	Orange, CA 92863-1584
Attention: Mark Ha	Attention: Venita Anderson
Supervising Transportation Analyst	Senior Contract Administrator
Tel: (949) 724-6186	Tel: (714) 560-5427
Email: mha@cityofirvine.org	E-mail: vanderson@octa.net
To LAGUNA HILLS:	To LAKE FOREST:
City of Laguna Hills	City of Lake Forest
24035 El Toro Road	25550 Commercentre Drive
Laguna Hills, CA 92653	Lake Forest, CA 92630
Attention: Kenneth H. Rosenfield	Attention: Dave Rogers
Assistant City Manager / Public Services Director	Traffic Engineering Manager
Tel: (949) 707-2655	Tel: (949) 461-3485
Email: krosenfield@lagunahillscs.gov	Email: drogers@lakeforestca.gov

M. Force Majeure: Either Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national

**COOPERATIVE AGREEMENT NO. C-9-1420
LAKE FOREST DRIVE – RTSSP**

fuel shortage; or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

This Agreement shall be made effective upon execution by all Parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-1420 to be executed as of the date of the last signature below.

CITY OF IRVINE

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____
Christina L. Shea
Mayor

By: _____
Darrell E. Johnson
Chief Executive Officer

Date: _____

Date: _____

ATTEST:

APPROVAL RECOMMENDED:

By: _____
Molly M. Perry
City Clerk

By: _____
Kia Mortazavi
Executive Director, Planning

Date: _____

Date: _____

APPROVED AS TO FORM

By: _____
Jeffrey Melching
City Attorney

Date: _____

COOPERATIVE AGREEMENT NO. C-9-1420
LAKE FOREST DRIVE – RTSSP

This Agreement shall be made effective upon execution by all Parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-1420 to be
executed as of the date of the last signature below.

CITY OF LAGUNA HILLS

By: _____
~~Dore Gilbert~~ Don Sedgwick
Mayor

Date: _____

ATTEST:

By: _____
Melissa Au-Yeung
City Clerk

Date: _____

APPROVED AS TO FORM

By: _____
Gregory E. Simonian
City Attorney

Date: _____

**COOPERATIVE AGREEMENT NO. C-9-1420
LAKE FOREST DRIVE – RTSSP**

This Agreement shall be made effective upon execution by all Parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-1420 to be executed as of the date of the last signature below.

CITY OF LAKE FOREST

By: _____

Mark Tetternier
Mayor

Date: _____

ATTEST:

By: _____

Maria Huizar
City Clerk

Date: _____

APPROVED AS TO FORM

By: _____

Mal Richardson
City Attorney

Date: _____

**COOPERATIVE AGREEMENT NO. C-9-1420
LAKE FOREST DRIVE – RTSSP
ATTACHMENT A**

DETAILED LOCAL MATCH COMMITMENT

SECTION 1: AGENCY TOTAL MATCH SUMMARY

AGENCY	CASH MATCH		IN-KIND MATCH*		TOTAL MATCH	
	Primary Implementation	Ongoing Monitoring & Maintenance	Primary Implementation	Ongoing Monitoring & Maintenance	Primary Implementation	Ongoing Monitoring & Maintenance
City of Lake Forest	\$ 293,653	\$ 8,640	\$ 0		\$ 293,653	\$ 8,640
	\$ 302,293				\$ 302,293	
City of Laguna Hills	\$ 38,668	\$ 1,920	\$ 0		\$ 38,668	\$ 1,920
	\$ 40,588				\$ 40,588	
City of Irvine	\$ 16,570	\$ 960	\$ 0		\$ 16,570	\$ 960
	\$ 17,530				\$ 17,530	
TOTAL	\$ 348,891	\$ 11,520	\$ 0	\$ 0	\$ 348,891	\$ 11,520
	\$ 360,411		\$ 0		\$ 360,411	

**In-kind match may be converted to cash match if agency does not satisfy in-kind match commitment by the end of the respective phase. However, Cash Match is NOT allowed to be converted to in-kind match.*

SECTION 2: MATCH BREAKDOWN (CASH VS IN-KIND SERVICES)

A. Cash Match

AGENCY	FUNDING SOURCE	AMOUNT OF CASH CONTRIBUTION
City of Aliso Viejo		\$ 302,293
City of Laguna Hills		\$ 40,588
City of Irvine		\$ 17,530
TOTAL		\$ 360,411

**COOPERATIVE AGREEMENT NO. C-9-1420
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ATTACHMENT A**

B. In-Kind Services

i. Specific Improvements (List items and Cost):

Agency	Improvement	Date of Construction	Expenditure
N/A			
TOTAL			\$ 0

ii. Staffing Commitment:

AGENCY	STAFF POSITION	TYPE OF SERVICE TO PROJECT	NO. OF HOURS	FULLY BURDENED HOURLY RATE	TOTAL**
N/A					
TOTAL IN-KIND MATCH**:					\$ 0

****Total amount is the required participation by the identified agency. The number of hours and hourly rate will be based on each agency's actual fully burdened billing rates, which must collectively equal the same value of the assigned "Total" dollars. Each agency will be responsible for keeping detailed records of hours worked and description of work. An accounting record of personnel, hours at fully burdened rate is expected to be included with the final submittal. Records will be subject to auditing.**



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Assistant City Manager/Director of Public Services

ISSUE: Proposed Professional Services Agreement with IDS Group, Inc., for the Engineering Design Services for the Laguna Hills Community Center Roof and HVAC Refurbishment Project, CIP No. 513-B.

RECOMMENDATION: That the City Council approve a proposed Professional Services Agreement with the engineering firm IDS Group, Inc., for engineering design services for the Community Center Roof and HVAC Refurbishment Project and Feasibility Study for a potential new HVAC system in gymnasium and authorize the Mayor to execute the proposed Professional Services Agreement with IDS Group, Inc., for CIP No. 513-B.

SUMMARY:

In accordance with the Capital Improvement Program Budget and the City's established procurement policies and procedures for professional services, five (5) proposals were received and evaluated for the subject project. Four qualified consulting firms were subsequently interviewed. The firm of IDS Group, Inc. was determined to be the best qualified consultant for the subject project in accordance with Laguna Hills Municipal Code Section 3-08.150. Upon selection of the most qualified candidate firm, Staff negotiated an acceptable professional services fee for the contemplated work. Approval of the proposed Professional Services Agreement for the design of the improvements to the Laguna Hills Community Center building is recommended.

BACKGROUND:

In accordance with the Capital Improvement Program Budget and the City's established procurement policies and procedures for professional services, Staff issued, on

Professional Services Agreement for Com Ctr HVAC Design

October 8, 2019

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August 21, 2019, a formal Request for Proposal (RFP) for the "Community Center Refurbishment Design of a Portion of the Existing Roof and All HVAC Equipment and Design of a New HVAC System for the Existing Gymnasium" in accordance with provisions of the Laguna Hills Municipal Code (LHMC) Section 3-08.150. The design of the gymnasium HVAC (i.e., the addition of new air conditioning) was to be as an Alternate Bid item as there is no designated construction budget for that portion of the work in the Capital Improvement Program Budget.

The procurement and award of a professional services agreement for engineering consulting services are subject to the regulations set forth in LHMC Chapter 3-08.150(C). The City's Purchasing Code provides, in relevant part, as follows:

"Notwithstanding any provision in this chapter to the contrary, selection by the city for professional services in areas including but not limited to private architectural, landscape architectural, engineering, environmental, land surveying, construction project management, management and administration, financial, accounting, auditing, actuarial, economics, and/or development and planning, which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise, training, or unique skills gained by formal studies or experience, shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required, and shall not be awarded solely on the basis of cost... such services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the city. In accordance with state law, the city shall consider price after the city is satisfied that the would-be person, company, corporation, contractor, consultant, or firm has demonstrated the competence and professional qualifications necessary for the satisfactory performance of the services required."

LHMC Section 3-08.150 recognizes that the selection of a firm or individual for professional design services is to first be done on the basis of the specialized knowledge, expertise, and training (qualifications) of the professional service provider (consultant) followed secondly by consideration of a reasonable fee. The issued RFP required the consultant to provide their qualifications and scope of work as one document and their proposed design fee in a second, sealed envelope. Procedurally, Staff does not open the design fee envelope(s) until the most qualified firm(s) are first identified.

Professional Services Agreement for Com Ctr HVAC Design

October 8, 2019

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By the due date of proposals, September 18, 2019, the City received five (5) proposals for the subject professional consulting services. Three Staff members independently evaluated and scored each of the proposals and then collectively determined that four consultants would be interviewed. Interviews were subsequently held on September 24, 2019.

During the course of the interviews, information was provided as to the likely cost of adding air conditioning (HVAC) to the gymnasium portion of the Community Center building. And, subsequent to the interviews, Staff was able to acquire a formal engineer's estimate of the planned addition of air conditioning to the City of La Mirada gymnasium. In consultation with the City of La Mirada, they advised their project will soon be out to bid. This information is relevant to the City of Laguna Hills because that gymnasium is identical to the Laguna Hills gymnasium, as it was designed by the same architect. The engineer's estimate for construction of adding air conditioning to the La Mirada gymnasium is \$677,191, including a 10% contingency (not including design fees). Given that this type of expenditure is not included in the Capital Improvement Program Budget, Staff has updated our approach to the selection of the consultant for the design services associated with this project to modify the scope of work, and, accordingly, the design fees to be for: 1) the design of the refurbishment/replacement of a portion of the existing roof (i.e., the flat roof areas) and all HVAC units; and, 2) the development of a feasibility study with cost estimate (no design) of the future addition of air conditioning to the gymnasium. This latter effort will confirm the estimated cost of adding air conditioning to the gymnasium, which will allow the City to budget for this work in the future.

Following the opening of the design fee envelope of the first qualified consultant, Staff determined their fee was higher than expected for the scope of work and engaged them in a negotiation to revise their proposed design fee, including adjusting the scope of work as described above. That consultant and Staff were not able to come to an agreement on an acceptable design fee. Accordingly, Staff engaged the second qualified firm, IDS Group, Inc., in a discussion of their design fee and same modification of the scope of work. Staff and the consultant were able to come to agreement on a reasonable fee and revised scope of work, as is now reflected in the proposed Professional Services Agreement with IDS Group.

The design work for this project needs to proceed now in order to meet scheduling commitments of the Community Center banquet facility, the Heritage Room. The Heritage Room is scheduled for use up to one year in advance and Staff already closed

Professional Services Agreement for Com Ctr HVAC Design

October 8, 2019

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the room for reservations for the first three weeks of May 2020 to accommodate the room not having air conditioning and being subject to construction noise during the roofing and HVAC replacement work. In order to meet that construction schedule, the design work must expeditiously proceed.

Attached, for approval, is a proposed Professional Services Agreement with the engineering firm IDS Group, Inc., for the design of the refurbishment of a portion of the existing roof and of all existing HVAC equipment at the Community Center, and for a feasibility study of the potential addition of a new HVAC system to the gymnasium portion of the building. The Agreement includes, as attachments, the consultant's revised Proposal, dated September 27, 2019, the Design Fee, and Schedule.

CEQA FINDINGS:

CEQA exempts from its requirements "feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded." (CEQA Guidelines §15262.) Here, the purpose of the proposed agreement is to obtain professional engineering consulting services for the design of the refurbishment of a portion of the existing roof and of all existing HVAC equipment at the Laguna Hills Community Center, and for a feasibility study of the potential addition of a new HVAC system to the existing gymnasium at the Community Center.

These plans and specifications, feasibility study, and estimates will aid the City: in determining whether to proceed with the Improvements; in determining whether the Improvements are exempt from CEQA review, or, if they are not, in identifying and disclosing the Improvements' potential environmental impacts (if any); and determining the costs of proceeding with the Improvements. The City has not yet approved, adopted or funded the Improvements. As a result, the proposed agreement for professional engineering consulting services falls within CEQA's statutory exemption for planning and feasibility studies. (CEQA Guidelines § 15162.)

Professional Services Agreement for Com Ctr HVAC Design

October 8, 2019

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FISCAL IMPACT:

The Community Center refurbishment of a portion of the existing roof and of all existing HVAC equipment is included in the Fiscal Year 2019-2020 Capital Improvement Program Budget for CIP No. 513-B in the total amount of \$350,000. The design fee of \$49,966.00 for IDS Group, Inc., (which includes approximately \$2,000 for a feasibility study of the future addition of air conditioning to the gymnasium), plus a 20% contingency allowance, is included within that budget.

ATTACHMENTS:

- Professional Services Agreement with IDS Group - Community Center Refurbishment
- Exhibit A

**PROFESSIONAL SERVICES AGREEMENT
IDS GROUP, INC.,**

*Engineering Design Services for Community Center Roof and HVAC Refurbishment Project and
Feasibility Study for Potential New HVAC System in Gymnasium*

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter "Agreement") is made and entered into, to be effective this 8th day of October 2019, by and between the CITY OF LAGUNA HILLS, a municipal corporation organized and existing under the laws of the State of California, (hereinafter referred to as "City") and IDS GROUP, INC., a California corporation, (hereinafter referred to as "Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and are hereinafter collectively referred to as the "Parties."

RECITALS

A. City has determined that there is a need to retain the professional services of a qualified, licensed engineering firm to provide specialized engineering design and consulting services for the proposed refurbishment of the Laguna Hills Community Center, located at 25555 Alicia Parkway, involving the design of the refurbishment of a portion of the existing roof and of all existing HVAC equipment at the Community Center, and for a feasibility study of the cost and scope of work for potentially adding a new HVAC system to the existing gymnasium at the Community Center, as well to provide the City with other as-needed engineering, project management, and support services that may be required on an on-call basis (the "Project").

B. In response to City's formal Request for Proposals ("RFP"), dated August 21, 2019, Consultant has submitted to City a proposal, dated September 18, 2019 (as revised September 27, 2019) to provide professional engineering, project management, and support services to City for the Project, pursuant to the terms of this Agreement.

C. Consultant represents and maintains that it is uniquely qualified by virtue of its experience, training, education, reputation, and expertise to provide these services to City for the Project and has agreed to provide such services as provided herein. City does not have the personnel, specialized equipment, or technical expertise able to perform the work or services contracted for herein.

D. City desires to retain Consultant to provide such professional engineering services for the Project.

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. SERVICES OF CONSULTANT

1.1 Scope of Services and Standard of Performance. In compliance with all terms and conditions of this Agreement, Consultant agrees to provide and perform the engineering, project management, and support services to City for the Project as set forth in the Consultant's Proposal/Scope of Work, dated September 18, 2019 (as revised September 27, 2019), which is attached hereto as Exhibit "A", and is incorporated herein by reference (hereinafter referred to as the "Scope of Services," the "Services" or "Work"). As a material inducement to the City entering into this Agreement, Consultant acknowledges and understands that the Services and Work contracted for under this Agreement require specialized skills and abilities and that, consistent with this understanding, Consultant's Services and Work shall be performed in a skillful and competent manner and shall be held to a standard of quality and workmanship prevalent in the industry for such Services and Work and with the standards recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and warrants that it is skilled in the professional discipline necessary to perform the Services and Work and that it holds the necessary skills and abilities to satisfy the standard of work as set forth in this Agreement. Consultant represents and warrants that it and all of its employees, subconsultants and subcontractors providing any Work or Services under this Agreement shall have sufficient skill and experience to perform the Services and Work assigned to them. All Services and Work shall be completed to the reasonable satisfaction of the City.

1.2 Contract Documents. The Agreement between the Parties shall consist of the following: (1) this Agreement; and, (2) the Consultant's signed, original Proposal/Scope of Work dated September 18, 2019 (as revised September 27, 2019) ("Consultant's Proposal") and submitted to City, which shall both be referred to collectively hereinafter as the "Contract Documents." The Consultant's Proposal is attached hereto as Exhibits "A" and is hereby incorporated by reference and made a part of this Agreement. All provisions of this Agreement and the Consultant's Proposal shall be binding on the Parties. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1st) the terms and conditions of this Agreement; and (2nd) the provisions of the Consultant's Proposal (Exhibit "A").

1.3 Compliance with Law. Consultant shall comply at all times during the term of this Agreement with all applicable federal, state, and local laws, statutes, and ordinances and all lawful orders, rules, and regulations promulgated thereunder, including without limitation all applicable fair labor standards and Cal/OSHA requirements. Consultant shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of the Work and Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with performing the Work and Services. If Consultant performs any Work or Services in violation of such laws, rules, and regulations, Consultant shall be solely responsible for all penalties and costs arising therefrom. Consultant shall defend, indemnify, and hold City, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules, or regulations.

1.4 Licenses, Permits, Fees, and Assessments. Prior to performing any Services or Work hereunder Consultant shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for Consultant to perform the Work and Services under this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the City, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

1.5 Familiarity with Work. By executing this Agreement, Consultant represents and warrants that it (a) has thoroughly investigated and considered the Scope of Work or Services to be performed, (b) has carefully considered how the Services should be performed and has carefully examined the location or locations at or with respect to where such Services or Work is to be performed, and (c) fully understands the facilities, difficulties, and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant represents and maintains that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of any Services hereunder. Should the Consultant discover any latent or unknown conditions that will materially affect the performance of the Services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the City.

1.6 Care of Work. Consultant shall adopt reasonable methods during the term of the Agreement to furnish continuous protection to the Work and the equipment, materials, papers, documents, plans, studies, and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Work by the City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties. Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement.

1.8 Additional Services. City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra work beyond that specified in Contractor's Proposal/Scope of Work (Exhibit "A") or in City's Request for Proposals/Scope of Services ("RFP"/ (Exhibit "B"), or make changes by altering, adding to, or deducting from such Work. No such extra work may be undertaken unless a written order is first given by the City to the Consultant, incorporating therein any adjustment in (i) the Maximum Contract Amount, as defined below, and/or (ii) the time to perform this Agreement, which adjustments are subject to the written approval of the Consultant. It is expressly understood by Consultant that the

provisions of this section shall not apply to the Work and Services specifically set forth in the Scope of Services or reasonably contemplated therein, regardless of whether the time or materials required to complete any Work or Service identified in the Scope of Services exceeds any time or material amounts or estimates provided therein.

1.9 Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other contractors, consultants, or vendors for services similar to the services that are the subject of this Agreement. Consultant further acknowledges that City may have its own employees perform services similar to the services that are the subject of this Agreement.

2. COMPENSATION

2.1 Maximum Contract Amount. For the Services and Work rendered pursuant to this Agreement, Consultant shall be compensated by City for the services performed, including authorized reimbursements, on a time and materials basis in accordance with the professional hourly rates, charges, and prices set forth in the Schedule of Compensation/Fees, which is attached hereto as Exhibit "A" and is incorporated herein by reference, but not exceeding the total maximum contract amount of Sixty Thousand Dollars (\$60,000.00) (hereinafter referred to as the "Maximum Contract Amount"). Compensation shall be payable according to the professional fees and at the rates, charges, and prices set forth in Exhibit "A" attached hereto. Compensation for necessary expenditures for reproduction costs, telephone expenses, and transportation expenses must be approved in advance by the Contract Officer designated pursuant to Section 4.2 and will only be approved if such expenses are also specified in the Schedule of Compensation/Fees. The Maximum Contract Amount shall include the attendance of Contractor at all Project meetings deemed reasonably necessary by the City. Contractor shall not be entitled to any increase in the Maximum Contract Amount for attending these meetings. The maximum amount of City's payment obligation under this Agreement is the amount specified in this section.

2.2. Method of Payment. Unless some other method of payment is specified in the Schedule of Compensation/Fees (Exhibit "A"), in any month in which Consultant wishes to receive payment, no later than the tenth (10th) working day of such month, Consultant shall submit to the City, in a form approved by the City's Finance Director, an invoice for services rendered prior to the date of the invoice. Such requests shall be based upon the amount and value of the services performed by Consultant and accompanied by such reporting data including an itemized breakdown of all costs incurred and tasks performed during the period covered by the invoice, as may be required by the City. City shall use reasonable efforts to make payments to Consultant within forty-five (45) days after receipt of the invoice or a soon thereafter as is reasonably practical.

2.3 *Intentionally omitted.*

2.4 Changes in Scope. In the event any change or changes in the Scope of Services is requested by the City, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional professional fees. An amendment may be entered into: (a) to provide for revisions or modifications to documents or other work product or work when documents or other work

product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product, or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Consultant's profession.

2.5 Appropriations. This Agreement is subject to and contingent upon funds being appropriated therefore by the Laguna Hills City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the City.

3. SCHEDULE OF PERFORMANCE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement. The time for completion of the services to be performed by Consultant is an essential condition of this Agreement. Consultant shall prosecute regularly and diligently the Work of this Agreement according to the agreed upon Schedule of Performance.

3.2 Schedule of Performance. Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed, or on each task order, if applicable, and shall perform all Services within the time period(s) established in the Schedule of Performance, which is attached hereto as Exhibit "A" and is incorporated herein by reference. When requested by Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer; however, the City shall not be obligated to grant such an extension.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant (financial inability excepted), including, but not limited to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the City, if Consultant, within ten (10) days of the commencement of such delay, notifies the City Manager in writing of the causes of the delay. The City Manager shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the City Manager such delay is justified. The City Manager's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this section.

3.4 Term. Unless earlier terminated as provided elsewhere in this Agreement, this Agreement shall commence upon the effective date of this Agreement, October 8, 2019, and shall continue in full force and effect for a period of fourteen months, and shall expire thereafter on December 31, 2020.

3.5 Task Orders. Consultant hereby agrees and acknowledges that any and all Services or Work performed pursuant to this Agreement shall be based upon the prior issuance

of a written task order by the City. Furthermore, Consultant hereby agrees and acknowledges that execution of this Agreement by the City does not in any way guarantee that a task order will be issued to Consultant. Moreover, execution of this Agreement by the City shall not entitle Consultant to any form of payment or compensation from the City without City first having issued a written task order.

4. COORDINATION OF WORK

4.1 Representative of Consultant. The following principal of Consultant is hereby designated as being the principal and representative of Consultant authorized to act in its behalf with respect to the Services to be performed under this Agreement and to make all decisions in connection therewith: **Robin O'Neil, P.E., Principal In Charge.** It is expressly understood that the experience, knowledge, education, capability, expertise, and reputation of the foregoing principal is a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Work or Services performed hereunder. The foregoing principal may not be changed by Consultant without prior written approval of the Contract Officer.

4.2 Contract Officer. The Contract Officer shall be such person as may be designated by the City Manager of City, and is subject to change by the City Manager. It shall be the Consultant's responsibility to ensure that the Contract Officer is kept fully informed of the progress of the performance of the Services, and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.3 Prohibition Against Subcontracting or Assignments. The experience, knowledge, capability, expertise, and reputation of Consultant, its principals and employees, were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, voluntarily or by operation of law, without the prior written consent of City. Consultant shall not contract with any other entity to perform the Services required without prior written consent of City. If Consultant is permitted to subcontract any part of this Agreement by City, Consultant shall be responsible to City for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and City. All persons engaged in the Work will be considered employees of Consultant. City will deal directly with and will make all payments to Consultant. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written consent of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be

void. No approved transfer shall release Consultant or any surety of Consultant from any liability hereunder without the express written consent of City.

4.4 Independent Contractor.

A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Consultant a City employee. During the performance of this Agreement, Consultant and its officers, employees, and agents shall act in an independent capacity and shall not act as City officers or employees. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Consultant or any of its officers, employees, or agents, except as set forth in this Agreement. Consultant, its officers, employees or agents, shall not maintain a permanent office or fixed business location at City's offices. City shall have no voice in the selection, discharge, supervision, or control of Consultant's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Consultant shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. City shall not in any way or for any purpose be deemed to be a partner of Consultant in its business or otherwise a joint venturer or a member of any joint enterprise with Consultant.

B. Consultant shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

C. No City benefits shall be available to Consultant, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Consultant as provided for in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for the performance of any Work or Services under this Agreement. City shall not be liable for compensation or indemnification to Consultant, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the City has financial obligations, other than pursuant to Section 2 and Subsection 1.8 herein, of any nature relating to salary, taxes, or benefits of Consultant's officers, employees, representatives, agents, or subconsultants or subcontractors, Consultant shall defend, indemnify, and hold harmless City from and against all such financial obligations.

4.5 PERS Eligibility Indemnification.

A. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employee Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify,

defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the City.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

5. INSURANCE

5.1 Compliance with Insurance Requirements. Consultant shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to City, all insurance required under this section. Consultant shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to City that it has secured all insurance required under this section. If Consultant's existing insurance policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

5.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Consultant shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. Commercial General Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. Automobile Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.

C. Workers' Compensation Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Consultant agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

D. Professional Liability (Errors & Omissions) Insurance. Consultant shall obtain and maintain in full force and effect throughout the term of this Agreement, a policy of Professional Liability or Errors and Omissions Insurance appropriate to Consultant's profession with limits of at least two million dollars (\$2,000,000.00). Covered professional services shall specifically include all Work or Services to be performed under the Agreement and delete any exclusions that may potentially affect the Work or Services to be performed under this Agreement.

1. The policy shall be endorsed to provide the following: Contractual Liability Exclusion Deleted: This insurance shall include contractual liability applicable to this Agreement. The policy must "pay on behalf of" the insured and include a provision establishing the insurer's duty to defend.

2. If the policy of insurance is written on a "claims-made" basis, the City may require that the policy be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Work or Services provided hereunder. In the event of termination of the policy during this period, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant during the course of performing the Work or Services under the terms of this Agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the City.

3. In the event the policy of insurance is written on an "occurrence" basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Work or Services provided for in this Agreement, whichever is later. In the event of termination of the policy during this period, new coverage shall immediately be obtained to ensure coverage during the entire course of performing the Work or Services under the terms of this Agreement.

5.3 Acceptability of Insurers. Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-VII or better (if an admitted carrier), or a

current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Lines Insurers (LASLI), by the latest edition of A.M. Best's Key Rating Guide, except that the City will accept workers' compensation insurance from the State Compensation Fund. In the event the City determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City. Consultant shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

5.4 Insurance Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to provide the following:

1. Additional Insured: The City, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement; and

2. Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Consultant, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

3. Notice: The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the City. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Consultant's failure to pay the insurance premium, the notice provided to City shall be by ten (10) days prior written notice.

B. For all policies of Commercial General Liability Insurance, Consultant shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.

5.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the City in advance and shall protect the City, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

5.6 Primary and Non-Contributing Insurance. All policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the City, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

5.7 Waiver of Subrogation. All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the City, its officials, officers, employees, agents and volunteers, or shall specifically allow Consultant or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Consultant hereby agrees to waive its own right of recovery against the City, its officials, officers, employees, agents and volunteers, and Consultant hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

5.8 Evidence of Coverage. Concurrently with the execution of the Agreement, Consultant shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Consultant shall promptly furnish, at City's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents City requires to verify coverage.

5.9 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

5.10 Enforcement of Agreement (Non-Estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the City to inform Consultant of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the City nor does it waive any rights hereunder.

5.11 Insurance for Subconsultants. Consultant shall either: (1) include all subconsultants or subcontractors engaged in any Work or Services for Consultant relating to this Agreement as additional named insureds under the Consultant's insurance policies; or (2)

Consultant shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the City, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability Insurance provided by Consultant's subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name the City, its officials, officers, employees, agents and volunteers, as additional insureds. Consultant shall not allow any subconsultant or subcontractor to commence any Work or Services relating to this Agreement unless and until it has provided evidence satisfactory to City that the subconsultant or subcontractor has secured all insurance required under this section.

5.12 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Consultant pursuant to this Agreement:

A. Consultant shall provide immediate written notice to City if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Consultant and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the City and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Project. It is Consultant's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Consultant agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Project will be submitted to the City for review.

F. Consultant agrees to provide immediate written notice to City of any claim, demand or loss against Consultant arising out of the Work or Services performed under

this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

6. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend (at Consultant's sole cost and expense with legal counsel reasonably acceptable to City), indemnify and hold the City, its elected and appointed officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officers, directors, employees, subcontractors, consultants or agents, in connection with Consultant's performance under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent that the Work or Services performed by Consultant are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Consultant's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless, and indemnify the City, its elected and appointed officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims arise out of, pertain to, or are related to the City's sole negligence, active negligence, or willful misconduct.

7. REPORTS AND RECORDS

7.1 Accounting Records. Consultant shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Consultant shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and to enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

7.2 Reports. Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of the Work and Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Work or Services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of such fact, circumstance, technique, or event and the estimated increased or decreased cost related thereto

and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

7.3 Ownership of Documents. All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Consultant, its employees, subconsultants, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be promptly delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of the documents and materials hereunder. Consultant may retain copies of such documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. Consultant shall ensure that all of its subconsultants and subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

7.4 Release of Documents. All drawings, specifications, reports, records, documents, and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer. All information gained by Consultant in the performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization.

7.5 Audit and Inspection of Records. After receipt of reasonable notice and during the regular business hours of City, Consultant shall provide City, or other agents of City, such access to Consultant's books, records, payroll documents, and facilities as City deems necessary to examine, copy, audit, and inspect all accounting books, records, work data, documents, and activities directly related to Consultant's performance under this Agreement. Consultant shall maintain such books, records, data, and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during the term of this Agreement and for a period of three (3) years from the date of final payment by City hereunder.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law and Venue. This Agreement shall be construed and interpreted both as to validity and as to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such County, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Interpretation. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. The terms of this Agreement are contractual and the result of negotiation between the Parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil

Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or paragraphs.

8.3 Termination. City may terminate this Agreement for any reason, with or without cause, upon giving Consultant thirty (30) days written notice. Upon such notice, City shall pay Consultant for Services performed through the date of termination. Upon receipt of such notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. Thereafter, Consultant shall have no further claims against the City under this Agreement. Upon termination of the Agreement pursuant to this section, Consultant shall submit to the City an invoice for work and services performed prior to the date of termination. In addition, Consultant reserves the right to terminate this Agreement at any time upon sixty (60) days written notice to the City, except that where termination is due to material default by the City, the period of notice may be such shorter time as the Consultant may determine.

8.4 Default of Consultant.

A. Consultant's failure to comply with any provision of this Agreement shall constitute a default.

B. If the City Manager, or City Manager's designee, determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall notify Consultant in writing of such default. Consultant shall have ten (10) days, or such longer period as City may designate, to cure the default by rendering satisfactory performance. In the event Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which City may be entitled at law, in equity, or under this Agreement. Consultant shall be liable for any and all reasonable costs incurred by City as a result of such default. Compliance with the provisions of this section shall not constitute a waiver of any City right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit City's right to terminate this Agreement without cause pursuant to Section 8.3.

C. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8.4(B), take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the Maximum Contract Amount (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated. The withholding or failure to withhold payments to Consultant shall not limit Consultant's liability for completion of the Services as provided herein.

8.5 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement

of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions hereof.

8.6 Rights and Remedies Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

8.7 Legal Action. In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

8.8 Attorneys' Fees. In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys' fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding. To the extent authorized by law, in the event of a dismissal by the plaintiff or petitioner of the litigation or non-judicial proceeding within thirty (30) days of the date set for trial or hearing, the other Party shall be deemed to be the prevailing Party in such litigation or proceeding.

9. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

9.1 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor-in-interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his or her financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of any state statute or regulation. Consultant represents and warrants that it has not paid or given and will not pay or give any third party any money or other consideration in exchange for obtaining this Agreement.

9.3 Covenant Against Discrimination. In connection with its performance under this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, disability, medical condition, religion, color, sex, sexual

orientation, age, marital status, ancestry, or national origin. Consultant shall ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, disability, medical condition, religion, color, sex, sexual orientation, age, marital status, ancestry, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10. MISCELLANEOUS PROVISIONS

10.1 Patent and Copyright Infringement.

A. To the fullest extent permitted by law, and in lieu of any other warranty by City or Consultant against patent or copyright infringement, statutory or otherwise, it is agreed that Consultant shall defend at its expense any claim or suit against City on account of any allegation that any item furnished under this Agreement, or the normal use or sale thereof arising out of the performance of this Agreement, infringes upon any presently existing U.S. letters patent or copyright and Consultant shall pay all costs and damages finally awarded in any such suit or claim, provided that Consultant is promptly notified in writing of the suit or claim and given authority, information and assistance at Consultant's expense for the defense of same, and provided such suit or claim arises out of, pertains to, or is related to the alleged negligence, recklessness or willful misconduct of Consultant. However, Consultant will not indemnify City if the suit or claim results from: (1) City's alteration of a deliverable, such that City's alteration of such deliverable created the infringement upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by Consultant when it is such use in combination which infringes upon an existing U.S. letters patent or copyright.

B. Consultant shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof, Consultant shall not be obligated to indemnify City under any settlement made without Consultant's consent or in the event City fails to cooperate in the defense of any suit or claim, provided, however, that such defense shall be at Consultant's expense. If the use or sale of such item is enjoined as a result of the suit or claim, Consultant, at no expense to City, shall obtain for City the right to use and sell the item, or shall substitute an equivalent item acceptable to City and extend this patent and copyright indemnity thereto.

10.2 Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) five (5) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Notices or other communications shall be addressed as follows:

To City:

City of Laguna Hills
Attention: City Manager

24035 El Toro Road
 Laguna Hills, California 92653
 Telephone: (949) 707-2600
 Facsimile: (949) 707-2633

To Consultant:

IDS Group, Inc.
 Attention: Robin O'Neil, P.E., Principal in Charge
 1 Peters Canyon Road, Suite 130
 Irvine, California 92606
 Telephone: (949) 387-8500
 Facsimile: (949) 387-0800

10.3 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

10.4 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be determined to be invalid by a final judgment or decree of a court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of that provision, or the remaining provisions of this Agreement unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

10.5 Successors in Interest. This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

10.6 Third Party Beneficiary. Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

10.7 Recitals. The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

10.8. Corporate Authority. Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not

violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

10.9 Labor Code Requirements.

A. Prevailing Wages. Consultant is aware of the requirements of California labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Work or Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Work or Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify, and hold the City, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.

B. DIR Registration. If the Work or Services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

10.10 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

“CITY”
City of Laguna Hills,
 a California municipal corporation

 DON SEDGWICK,
 Mayor

ATTEST:

 (SEAL)
 MELISSA AU-YEUNG,
 Assistant to the City Manager/ City Clerk

APPROVED AS TO FORM:

 GREGORY E. SIMONIAN,
 City Attorney

“CONSULTANT”
IDS Group, Inc., a California corporation

By: _____
 SAID HILMY, President

EXHIBIT “A”**CONSULTANT’S PROPOSAL/ SCOPE OF WORK****DATED: September 18, 2019****(As Revised: September 27, 2019)**

SCOPE OF WORK FOR PROJECT**INCLUDING,****SCHEDULE OF PERFORMANCE****AND****SCHEDULE OF COMPENSATION/ FEES**



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A. Cover Letter

September 18, 2019 (Revised September 27, 2019)

City of Laguna Hills
Kenneth Rosenfield, PE
Assistant City Manager/Public Services Director
24035 El Toro Road
Laguna Hills, CA 92653

SUBJECT: REVISED PROPOSAL FOR COMMUNITY CENTER REFURBISHMENT DESIGN OF A PORTION OF THE EXISTING ROOF AND ALL HVAC EQUIPMENT

Dear Mr. Rosenfield and Members of the Selection Committee:

IDS Group, Inc. (IDS) is an award-winning multidiscipline architectural and engineering consulting firm with roots spanning over 50 years. Our integrated design team provides added value through our specialized divisions – mechanical, plumbing, electrical, structural, and civil engineering, as well as architecture and construction management.

Our firm and staff have a strong portfolio providing HVAC design for numerous buildings including several gymnasiums, most recently the City of La Mirada Community Gymnasium HVAC Improvements and City of Commerce Veterans Park Recreation Building. We are excited to bring our expertise and provide engineering services in support of your project.

Differentiators that IDS will bring to the City of Laguna Hills include the following:

- **Collaborative Partner.** We have a strong commitment to designing projects for public works agencies that are environmentally friendly, cost efficient, easy to maintain. Working in partnership with the City, IDS will serve as a collaborative partner during all phases of the projects assigned to our team.
- **Commitment to Sustainability.** We have extensive experience in the survey, assessment, evaluation, and design of HVAC, plumbing, and electrical systems for more than 250 public projects during the last five years including new design, reconstruction, and modernization. In addition, our MEP team members are passionate about sustainability and net-zero design options. We will bring our knowledge and lessons learned to the City.
- **Team Expertise.** **Rob O'Neil, PE, IDS' MEP Principal**, has over 30-years of experience working on both new and existing public works projects. Serving as the **Project Manager**, **Walter "Sandy" Maclean**, PE has over 30 years of experience including commissioning, energy programs, troubleshooting, feasibility studies, economic analysis, and conceptual designs for the heating, ventilating, air conditioning (HVAC), plumbing, piping and fire protection systems for numerous major projects. Serving as **Project Designer**, **Ray Mayuga** has more than 20 years performing analysis of system design options, load calculations, energy efficiency compliance analysis (Title 24), specification writing, system design and layout, construction administration support
- **Leadership.** Our firm has been honored with many awards including Engineering Project Achievement Award Orange County Engineering Council, United States Department of Energy: Award for Energy Innovation, Southern California Edison Design for Excellence and Several Awards from the Department of the Navy.

We thank you for the opportunity to submit our qualifications and look forward to presenting our team to you in person. IDS' Principal, Mr. Said Hilmy, Ph.D., PE, SE, LEED AP, will contractually bind the firm regarding matters pertaining to this proposal.

Sincerely,

IDS Group, Inc.

Robin O'Neil, PE
MEP Principal



B. Company Data

1. *Official name and address:*

IDS Group, Inc., 1 Peters Canyon Rd., Ste. 130, Irvine, CA 92606
949.387.8500 ▲ 949.387.0800 fax

2. *Primary Point of Contact:*

Walter "Sandy" Maclean, PE, 1 Peters Canyon Rd., Ste. 130, Irvine, CA 92606
949.387.8500 ext. 412 ▲ 949.387.0800 fax

3. *Type of Entity:*

Corporation

4. *Federal Employer I.D. Number:*

33-0819861

5. *Firm's Locations:*

Local / Corporate Office:

1 Peters Canyon Rd., Ste. 130 ▲ Irvine, CA 92606
949.387.8500 ▲ 949.387.0800 fax ▲ walter.maclean@idsgi.com

Additional Resources:

9636 Tierra Grande, Suite 200 ▲ San Diego, CA 92126
619.402.0226 ▲ 858.502.7640 fax

10855 W. Olympic Boulevard, Suite 515 ▲ Los Angeles, CA 90064
323 800 6500 ▲ 323 800 6501 fax

6. *Ownership:*

IDS is owned by two individuals.

7. *Number of years Proposer has been in business under the present business name:*

Originally established as Integrated Design Services, the firm officially changed its name and brand identity to IDS Group in 2007 (12 years).

8. *Number of years of experience the Proposer has had in providing required, equivalent, or related services:*

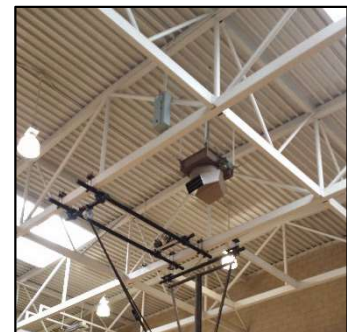
IDS is an award-winning firm that has offered a broad range of multidisciplinary engineering and architectural consulting services for over 50 years.

9. *All comparable contracts entered into during the last five (5) years, completed or not:*

City of La Mirada Community Gymnasium, HVAC Improvements, La Mirada, California

IDS is providing mechanical, electrical, plumbing and structural design for HVAC upgrades at the La Mirada Community Gymnasium.

The existing building has only ventilation and a limited number of overhead radiant heaters. The renovation work for the new upgrade will involve installing two new gas/ electric 40 ton roof-top package units above the gym roof, provide structural reinforcement on the roof, routing a new gas line from the existing gas meter to connect to the units for heating, and electrical power upgrade for the new units.





Year Started and Completed: 2018 – Ongoing	Client/Agency Name: City of La Mirada	Scope of Work: - Site Investigation - Design Development - Construction Documents - Bid & Award Support
Project Manager: Walter Maclean	Project Developer: City of La Mirada	
Construction Cost: \$677,191	Size of Project: 14,000 sf building 2 40-ton units	

City of Commerce Veterans Park Recreation Building HVAC Replacement, Commerce, California



IDS provided for MEP and structural engineering consulting services for the HVAC upgrade to their existing Veterans Memorial Park recreational building. The 60 plus year building currently does not have any conditioned air for the building; only ventilation. IDS scope was to provide

HVAC design for gymnasium and common areas; lobbies, restrooms. The new HVAC system included two (2) new 20 ton roof top gas electric package units with CO2 sensors to control the outside air (OSA) dampers. New digital programmable thermostats with wireless connection to RTU control panels were included with the design. Structural engineering services were provided to design roof framing supports for new equipment. New electrical panels were designed to accommodate the new equipment. The new HVAC system was designed in compliance with 2016 Title 24 Mechanical standards. To date this project is on schedule, within budget and foresee no problems.

Year Started and Completed: 2017 – Ongoing	Client/Agency Name: City of Commerce	Scope of Work: - Site Investigation - Design Development - Construction Documents - Bid & Award - Construction Phase
Project Manager (Mechanical): Walter Maclean	Project Developer: City of Commerce	
Construction Cost: \$14,000,000	Size of Project: 2 20-ton units	

Long Beach Gas & Oil Testing Facility Renovation, Long Beach, California

Long Beach Gas & Oil, the natural gas utility company for the City of Long Beach, retained IDS to renovate their 1970's gas meter testing facility on Spring Street. The 50,000 sf facility, consisting of administrative offices, locker rooms, testing labs and warehouse, required design services to renovate the aging facility to a new state-of-the-art facility.

The building was updated to comply with latest ADA, seismic, mechanical and electrical systems.





The mechanical scope included demolition of the antiquated hydronic heating/cooling system and related ventilation equipment. The HVAC design provides 13 new rooftop packaged gas/electric AC units with gas heating for a total capacity of 45 tons. These units serve the office areas, conference and training rooms. New ventilation system was designed for men's and women's lockers, restrooms and shower rooms. The system includes roof exhaust fans interlocked with 100% OSA packaged make-up units, gas heating, and electric cooling; Design ventilation system for the meter shop area includes exhaust fans interlocked with the supply make-up air fan. A new title compliant HVAC control system was installed. Continual internal coordination with the IDS structural group ensured that RTU units were properly placed. Plumbing scope included new hot water heater, domestic water and sewer for remodeled restrooms and showers.

Year Started and Completed 2015 -2018	Client/Agency Name: Long Beach Gas & Oil	Scope of Work: - Site Investigation - Design Development - Construction Development - Bid & Award - Construction Phase
Project Manager (Mechanical): Maysoon Sheabaan	Project Developer: Long Beach Gas & Oil	
Construction Cost: \$2,500,000	Size of Project: 50,0000 sf building 13 rooftop units (45 tons total)	

Los Angeles Unified School District- Carson High School – Cooling Retrofit for Gymnasium Building, Carson, California



IDS Group was retained by LAUSD to provide cooling upgrade to the gymnasium that was served by only ventilation units. The scope of work included investigating all cooling solutions including, but not limited to, installing a new heating, ventilation, and air conditioning system and upgrading the fire alarm system.

The scope of work also included detailed specifications for demolition of existing hot water heating/ ventilation units serving the gym. The renovation work for the new upgrade involved

installing new gas/ electric roof top package units above the building roof, provide structural reinforcement on the roof, route new gas line from existing gas meter to connect to the units for heating, and electrical power upgrade for the new units. IDS also developed HVAC Controls and Zoning (environmental control and energy management system). The approximate area for new work scope was 31,000 sf. LAUSD's estimated the construction budget for the upgrade at \$2,825,000. .

Year Started and Completed 2015 -2019	Client/Agency Name: Los Angeles Unified School District	Scope of Work: - Site Investigation - Design Development - Construction Development - Bid & Award - Construction Phase
Project Manager (Mechanical): Maysoon Sheabaan	Project Developer: Los Angeles Unified School District	
Construction Cost: \$2,825,000	Size of Project: 31,0000 sf building 150 tons total	

**Mount San Jacinto College Gymnasium and Locker Room Upgrades, San Jacinto, California**

IDS was selected to provide MEP engineering services for Mount San Jacinto College for the upgrade of the of the HVAC and control systems for the Athletics Gymnasium, Locker Room, Baseball Field, Track and Field.

Upgrades included new HVAC, lighting, power, and fire alarms in the gymnasium as well as the addition of new showers in the restrooms. Relocation of the locker rooms and the addition of new showers and restrooms.

Year Started and Completed 2016 -2018	Client/Agency Name: Gensler Architects	Scope of Work: - Site Investigation - Design Development - Construction Drawings - Bidding Support - Construction Administration
Project Manager: Rob O'Neil	Project Developer: Mt. San Jacinto College	
Construction Cost: \$9,900,000	Size of Project: 13,690 sf building	

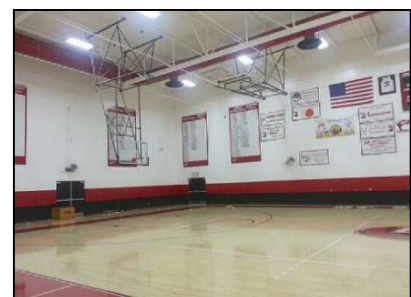
City of Torrance, HVAC Design Program, Torrance, California

IDS provided mechanical, electrical, plumbing and structural design for HVAC upgrades at various City buildings. The project consists of the repair, replacement and upgrades of various components of the existing HVAC systems, fan coils units and split systems will be testes, and new curbs, anchor details and structural connections will be required for all roof top equipment over 400 lbs. that are to be replaced. Design work including plan check approval was accomplished within 6 months of NTP.



Projects included in our scope-of-work included City Hall Computer Room Back Up Air Conditioner; West Annex Boiler General Scope of Work. (Project 604); CC Library Motors, VFD's1 and Fan Scope of Work. (Project 459); Various Equipment (Project 605); Various Equipment (Project 606) - Fire Prevention; Various Equipment (Project 606); Fire Station #1Various Equipment (Project 611); Various Equipment (Project 869); Various Equipment (Project 773)

Year Started and Completed 2017 -2018	Client/Agency Name: City of Torrance	Scope of Work: - Site Investigation - Design Development - Construction Drawings - Bidding Support - Construction Administration
Project Manager: Maysoon Sheabaan	Project Developer: City of Torrance	
Construction Cost: \$9,900,000	Size of Project: 7 Municipal Buildings	

East Whittier City School District HVAC Replacement Project, East Whittier, California



Proposal

Design of the Community Center HVAC/Roof

IDS was selected to provide MEP engineering and design services for East Whittier City School District to replace/upgrade existing HVAC equipment for five schools: Leffingwell, Ceres, La Colima, Ocean View and Laurel.

As-built drawings of the existing MEP systems were not available, therefore, IDS MEP engineers conducted extensive site work to ensure accurate information on equipment, duct work, electrical panels and plumbing were surveyed.

In accordance with Title 24 mechanical energy requirements, economizers would be required on the new HVAC roof top units. This new economizer adds significant weight to a standard RTU and would add cost to provide structural support to the exiting roof framing. IDS Mechanical engineers created an innovative solution to reduce weight on the roof by designing a remote compressor unit separate from a new roof top fan unit.

Three of the schools required an electrical service upgrade. Two aging electrical services existed at each of these schools, therefore IDS Electrical engineers combined the two services for each of these schools and designed one new single electrical service for each. Due to the age and condition of many of the sub-panels at each school all were replaced with new.

IDS plumbing engineers provided design for new condensate lines and to replace many of the schools aging restroom fixtures including relocation of utility lines to accommodate ADA requirements.

Year Started and Completed 2018 –Ongoing	Client/Agency Name: East Whittier City School District	Scope of Work: ■ Site Investigation ■ Design Development ■ Construction Drawings ■ Bidding Support ■ Construction Administration
Project Manager: Maysoon Sheabaan	Project Developer: East Whittier City School District	
Construction Cost: \$28,000,000	Size of Project: 5 School Sites	

Chino Valley USD, District Wide HVAC/Plumbing Modernization, Chino, California

IDS provided a conditions assessment report and construction documents for the replacement of existing HVAC systems and installation of new HVAC for 11 schools at Chino Valley Unified School District. In addition to providing mechanical engineering and design services, IDS provided plumbing engineering for condensate piping design and structural engineering for new HVAC unit roof curbs.



Chino Valley USD did not require an Energy Management System (EMS), therefore, HVAC controls were designed to comply with District standard Viconic individual unit thermostats with PIR occupancy sensors. The thermostats were configured for “occupied set point” when space is occupied during daytime operation and “night set back set points” when space is unoccupied.

Not all of the buildings were originally provided with HVAC units, therefore, new HVAC units were installed. New duct work, curbs, plumbing and electrical needed to be provided to support the new HVAC systems. IDS was instrumental in coordinating all these disciplines to ensure that the project throughout design and construction was successful.



Some of the challenges of the project were that many of the buildings are Type V, one hour construction with rated hard ceilings. IDS coordinated with the design architect and the District for the replacement and or continuation of existing rated ceilings. Some of the ceilings needed to be lowered to accommodate the new and



or replacement of existing duct work. Each building required different scope, adding to the unique challenges of the project.

Year Started and Completed 2017 – 2019	Client/Agency Name: Chino Valley Unified School District	Scope of Work: ▪ Site Investigation ▪ Design Development ▪ Construction Drawings ▪ Bidding Support ▪ Construction Administration
Project Manager: Maysoon Sheabaan	Project Developer: Chino Valley Unified School District	
Construction Cost: \$50,000,000	Size of Project: 11 school sites	

10. Any failures or refusals to complete a contract and explanation:

IDS has never failed or refused to complete a contract.



11. *Individuals/Firms who own an interest of 10% or greater in the proposing firm.*

IDS is owned by two individuals:

- Said Hilmy, PhD, PE, SE, LEED AP: 51%
- Rami Elhassan, PhD, PE, SE: 49%

12. *Financial interests in other lines of business.*

IDS has no financial interest in other lines of business.

13. *Litigation/Adverse Judgement History:*

IDS has never had litigation filed against the company or the proposed Principal or Project Manager related to performance of a professional services agreement or participation on a project

14. *Termination of Contract "For Cause" History:*

IDS has never had any professional services agreement or other services contract (or portion thereof) that was entered into by IDS or the proposed Principal/Project Manager, terminated for cause or required completion by another party.

"[IDS] are a customer-oriented service that provides solutions. They have always been available for coordination meetings and are extremely responsive, reliable and always meet the required deadlines. We look forward to working with them in the future on many more projects."



*James Costa, CVUSD
Construction Coordinator
Chino Valley USD*



C. Resumes and Qualifications of Personnel



Robin O'Neil, PE

Principal in Charge

Mr. O'Neil has over 30 years of Electrical Engineering experience in commercial, municipal lighting and utility infrastructure projects. His expertise encompasses conceptual planning through final design.

Rob's background includes serving as the electrical project manager on multiple private and public agency projects. In this role, Rob collaborates with the in-house MEP team at IDS to deliver recommendations and deferred maintenance reports to his clients. Rob is also an industry expert in Title 24 Compliance, working with both clients and architects to educate them on the changes to the code.

Position:

MEP Principal (5 years)

Education

Bachelor of Science, Electrical Engineering, Rockville University, MD

Professional Credentials

Professional Electrical Engineer, California (E18557)

Professional Affiliations

Illuminating Engineering Society, Orange County Section
Certified Engineering Technologist (C.E.T.) Ontario, Canada

Technical Expertise

Specializes in Title 24
Designed numerous MEP rehabilitation
Energy Efficient Designs

Relevant Project Experience

East Whittier City School District HVAC Replacement Project, East Whittier, CA (2018): Principal in charge for design services for East Whittier City School District to replace/upgrade existing HVAC equipment for five schools: Leffingwell, Ceres, La Colima, Ocean View and Laurel.

City of Torrance, HVAC Design Program, Torrance, CA (2017): Principal in charge for the design of HVAC upgrades at various City buildings. The project consists of the repair, replacement and upgrades of various components of the existing HVAC systems, Design work including plan check approval was accomplished within 6 months of NTP.

Veterans Memorial Park Recreation Center, Commerce CA (2017): Principal in charge for the instalment of two new make-up air units with gas heating and dx cooling for a retrofit/repair project at the Veterans Memorial Park recreational center.

Chino Valley USD, District Wide HVAC/Plumbing Modernization, San Bernardino County, CA (2016): Principal in charge for a condition assessment report and construction documents for the replacement of existing HVAC systems and installation of new HVAC for 11 schools at Chino Valley Unified School District. Some of the challenges of the project were that many of the buildings are Type V, one-hour construction with rated hard ceilings. IDS coordinated with the design architect and the district for the replacement and or continuation of existing rated ceilings. Some of the ceilings needed to be lowered to accommodate the new and or replacement of existing duct work.



Robin O'Neil, PE

Principal in Charge

Continued

Each building required different scope, adding to the unique challenges of the project. Rob provided QA/QC for this project.

Mount San Jacinto College Gymnasium and Locker Room Upgrades, San Jacinto, CA (2016): Principal in charge for the upgrade of the of the HVAC and control systems for the Athletics Gymnasium, Locker Room which included new HVAC, lighting, power, and fire alarms in the gymnasium as well as the addition of new showers in the restrooms..

LAUSD, Carson High School Gymnasium, Carson, CA (2015) Principal in charge for replacement of existing hot water heating ventilation system with roof-mounted electric cooling gas heating units at the Carson High School Gymnasium/Locker Building.

Long Beach Gas & Oil Testing Facility Renovation, Long Beach, CA (2015): Principal in charge/lead electrical engineer for the renovation a gas meter testing facility. The HVAC design provides 13 new rooftop packaged gas/electric AC units with gas heating for a total capacity of 45 tons.



Walter "Sandy" Maclean, PE

Senior Mechanical Engineer

Walter Maclean is a registered mechanical engineer with more than 30 years of experience in the planning, design, analysis and management of all aspects of energy savings performance projects. His expertise includes HVAC retrofit and optimization, project development, energy conservation analysis, including energy savings calculations, life cycle cost analysis, and project management.

Relevant Project Experience

City of La Mirada Community Gymnasium, HVAC Improvements, La Mirada, CA (2018): Project Manager for HVAC upgrades at the La Mirada Community Gymnasium. Sandy managed the renovation work for the new upgrade which involved installing two new gas/ electric 40 ton roof-top package units above the gym roof.

Design Services for the Great Park Western Sector Restrooms, Irvine, CA (2018): Mechanical Project Manager for the design of a new permanent restroom facility including surrounding site improvements consisting of landscaping, hardscaping, outdoor furniture, public amenities, and utilities to be located at the Orange County Great Park Western Sector sites. The project should be designed to complement the architectural character of the existing facilities within the Western Sector of the Orange County Great Park.

Veterans Memorial Park Recreation Center, Commerce CA (2017): As Mechanical Project Manager, Sandy oversaw the instalment of two new make-up air units with gas heating and dx cooling for a retrofit/repair project at the Veterans Memorial Park recreational center. Additionally provided exhaust fans for restrooms.

City of Rialto Community Center Rehabilitation, Rialto, CA (2017): The City of Rialto Community Center required design services for tenant improvements for rehabilitating the existing Community Center, which included four separate buildings (Buildings 200, 300, 400, and 500). As Mechanical Engineer, Sandy oversaw the development of the design concept that revitalize the community center while maintaining the costs of the project within the allocated budget

LAUSD, Carson High School Gymnasium, Carson, CA (2017) Lead Mechanical Engineer for replacement of existing hot water heating ventilation system with roof-mounted electric cooling gas heating units at the Carson High School Gymnasium/Locker Building.

Position:

Associate Principal (2 years)

Education

Bachelor of Science, Mechanical
Engineering, University of
California, Irvine

Professional Credentials

Professional Mechanical
Engineer, California (M31382)
CEM, Certified Energy Manager
Certified Indoor Air Quality
Professional

Technical Expertise

Specialty niche working with HVAC
Office / TI expertise
Blends expertise in mechanical
engineering with project management
skills

**Mechanical/Plumbing Current and Past Clients**

Aerospace	HPI Architecture	Orange County Social Service Agency
Alexander Hibbs	Humphreys and Partners, Inc.	Pacific Medical Building
Alliance Industrial Refrigeration Services, Inc.	IEC	PacTen Partners
Amazon Properties, LLC	Inland Empire Utilities Agency	Palos Verdes Pen. USD
Applied Medical	JCK Engineering	Paramount Contractors & Developers
Balfour Beatty	Jensen Hughes	PB Presort Services, Inc.
Behr Browers	JP Morgan Chase	PDS Parking Solutions
Beverly Hills Hospitality Group	Kinsbursky Brothers, Inc.	PJHM
BH Triangle - Avison Young	KPI Architects	PMC Contractors
Broward Builders	Kraus Construction	Poon Design
Cafe Valley Bakery	KTGY	Poon Design, Inc.
Cal Premium Treats	Laguna Woods Village	Professional Community Management
Carlile Coatsworth Architects	Langdon Wilson	Prospec, Inc. HVAC
Cedars Sinai Medical Center	LCS Construction	R2A Architecture
Center Gallery	LSA Architects	Rachlin
Chapman University	Lyon	Robert Borders
City of Buena Park	M Grisafe Architects	Roesling Nakamura Terada Architects
Communitas Architecture	Melrose Ave	San Antonio Community Hospital
Disney	Mercy Housing	SGH Architects
Dynamic Heating & Air	Merlone Geiser Partners	SGPA Architecture & Planning
Edenco	Mogavero Architects	Stoutenborough
EMCOR	Monica and Chuck Gray (Loco Cycle)	Sunrise Senior Living
Enovity	Morse Boudreaux Architects	Tait & Associates
Entertainment Properties Real Estate	MW Steele Group	TBP Architects
Environ	New Standard Equities, Inc.	Temecula Valley USD
Everstrong Construction	Newman Garrison + Partners, Inc.	The Hanover Company
Farnsworth Group	NOREAS	Togawa Smith Martin
Farooq Maniar	Occidental College	Transportation Corridor Agencies
Fullerton School District	Oculus Architects	University of California, Irvine
Gensler	Orange County Community Resources	Vanir Construction
Ghataode Bannon Architects	Orange County District Attorney	Wayne C Siu Architects
Greg Maedo Associates	Orange County Public Works	Westgroup Designs
Guidance Charter Services	Orange County Sanitation District	WLC Architects
Guidance Support Service	Orange County Sheriff 's Facility Planning	
HDO Architects		
Hill Partnership		
HMC Architects		
Housing Authority		

**Electrical Current and Past Clients**

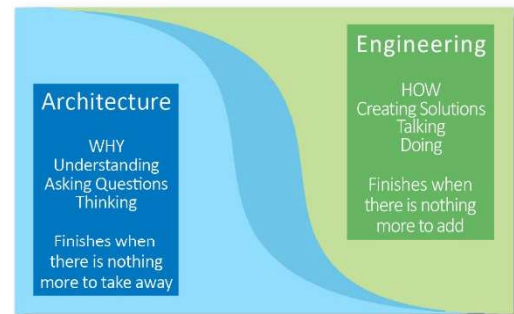
5825 Sunset LLC	ETBA Architects	Pacific Communities Builder, Inc.
AC Martin	Fairfield Residential	Paradigm Engineering Group
Access Electric	Fast 5 Xpress, LLP	Parking Design Solutions
Advent Companies	Fifield 1500 Figueroa	PB Presort
Architects Orange	Fleming Alliance	Precision Refrigeration and Air Conditioning
Architectural Design Collaborative	Given Design Group	Project Awards
Archstone	GR Parking	Prometheus Real Estate Group
Associated Estates	Gruen Associates	PWP Landscape
Avalon Bay	Hirsch & Associates	R.W. Electric
Berg Electric	HL Capital Holdings II, LLC	Rachlin
BJ Palmer	Hudson Enterprises	Regency Lighting
BMLA, Inc.	Humphreys	Riverview
Brandywine Community	Humphreys - Millikan	Sares Regis
Brookfield Land Construction	Humphreys - Tasman	SGE Consulting Structural Engineers
Burbank Village	Kava Massih	Studio Lemonade
Byrom-Davey, Inc.	KB Home	SUBCONTRACTOR PROPOSALS
C.J. Light Associates	Kelly Peart	Sunwood Menifee 79, LLC
Carlile Coatsworth Architects	Kensington West LLC	Synergy Solutions
Cedars Sinai Medical Center	KOA Corporation	Temecula Valley USD
City of Rancho Cucamonga	KPRS	The Hanover Company
City of Santa Monica	KTGY	The Wolff Company
Clark & Green Associates	Legado	Thomas Cox Architects
Community Dynamics	Lewis Management Corp	Thompson Dorfman
Conti Corporation	Loma Linda University Medical Center	Three Forbes LLC
County of Orange	Lowe Enterprises Real Estate Group	Togawa Smith Martin
Dana Electric	LPA	Unity Electric
David Evans & Associates	Lyon Communities	Van Daele Homes
Davis Reed	Mat West Company	Vista 1248, LLC
Demunno Kerdoon	Mercy Housing	Vista Canyon Phase I LLC
Devcon	Mia Lehrer and Associates	Vista Investments
Dignity Health-Bakersfield Memorial Hospital	Mission Resources Conservation District	Ware Malcomb
DSA 6-AE	Morse Boudreaux Arch	Whitenack Consulting
Eastern Municipal Water District	National Fail Safe	Wilhelm Electric Company
Electro Construction	Newman Garrison	WLC Architects
EMCOR	Notre Dame High School	Wood Partners
Entertainment Properties Realty	OMB Electrical Engineers	World Oil Corp
Equity Residential	PACE	WP West Builders



IDS' "All Under One Roof" A&E Model

Our design philosophy is to develop fully integrated design solutions through a web of specialists collaborating in a multi-disciplinary environment.

The use of integrated design teams fosters close working relationships and encourages resolutions to individual problems as they arise. This approach helps us avoid potential conflicts, promotes an understanding and appreciation among team members of the demands of other disciplines, and activates mutually compatible solutions to address design concerns.



Successful projects stem from clear, common goals and a team fortified by relationships based on trust and confidence. This requires that all team members recognize the importance of accountability, transparency, and continual communication/ responsiveness by all parties.

Our key members will establish communication protocols and procedures that work for them and guarantee consistent results. Our approach is to be engaged in your project from day one all the way through to project closeout, which ensures our input into the process and guarantees a smooth transition between all phases of your project.

Additional Support Personnel

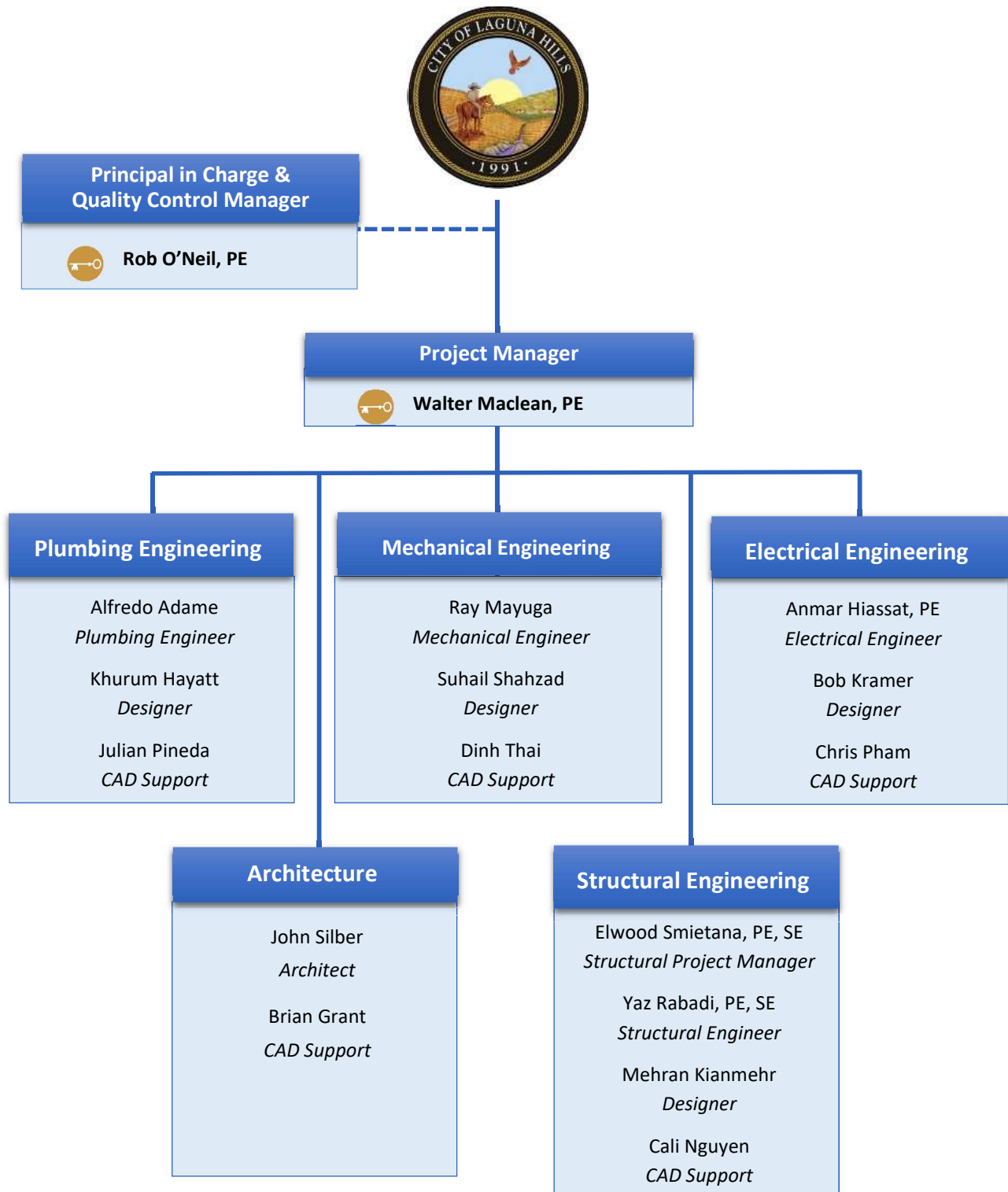
The following is a list of number and type of additional support personnel IDS will provide to complete this project. Names and roles are also listed in our Organizational Chart on the following page:

- Mechanical/Plumbing Engineering – 3 support personnel
- Electrical Engineering – 3 support personnel
- Structural Engineering – 4 support personnel
- Architecture – 2 support personnel



D. Organizational Chart

IDS hereby acknowledges that the Personnel identified herein will be available to the extent proposed for the duration of the project, and that no Personnel assigned to this project shall be removed or replaced without the prior written concurrence of the City.





Transition Plan

IDS is long established and uses an integrated, multi-discipline approach to engineering and architecture services. Our team is made of entirely of IDS employees. Communication failures and/or disputes are avoided. IDS hires for the long term ensuring that the team is accustomed to working together and counting on one another. Our Project Principal, Rob O'Neil, has been with IDS for four years. Our Project Manager, Walter Maclean, has been with IDS for two years.

As a 90 person firm IDS has the size and staff "related experience redundancy" needed to permit lateral move replacement of a project team member from in-house resources. Our project team has the depth of experience to also "allow move up staffing adjustments." Should the need arise for staffing adjustments at the Project Principal or Project Manager position such a change will be made by Said Hilmy, President of IDS Group. Said will contact the City prior to finalizing the change. Changes to staff below the level of Project Manager, if required, will be made by the Project Manager in consultation with Said Hilmy. Although changes in staff are rarely required, we understand the importance of working through these changes in consultation with the City.

HVAC Upgrades for the FETCA

"IDS was very responsive to our needs ... everything progressed through completion. I highly recommend the IDS team."



Kurt Machtoff, CFM
Project Manager
Foothill Eastern Transportation Agency



E. References

City of La Mirada Community Gymnasium, HVAC Improvements, *La Mirada, California*

Ms. Lori Wolfe, PE
Principal – Wolfe Engineering and Design
714.402.9645
loriwolfe@wolfe-engineering.com

Dates:

7/2018-Ongoing

City of Commerce Veterans Park Recreation Building HVAC Replacement, *Commerce, California*

Ms. Maryam Babaki, PE
Director of Public Works & Development Services Department
323.722.4805 Ext. 2337
mbabaki@ci.commerce.ca.us

Dates:

7/2017-Ongoing

Los Angeles Unified School District- Carson High School – HVAC Retrofit For Gymnasium Building, *Carson, California*

LAUSD
Alfredo R. Alvarez – Architect, Design Manager
(213) 241-0516
alfredo.alvarez@lausd.net

Dates:

8/2016-Ongoing



F. Project Understanding, Overview and Approach

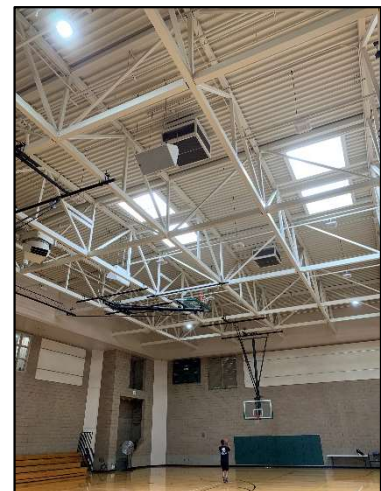


It is understood that the City is currently planning to replace all of the existing rooftop HVAC package units (a total of approximately 14) and one (1) evaporative cooler that serves the kitchen. There is also an issue with water leaks through the roof, which requires the replacement of the flat sections of the roofs of the buildings. Due to the original construction of the roofs, water tends to leak through the top layer and then migrate to other areas of the building before it finally leaks through the ceiling into an occupied space. Therefore, the City has rightly determined that the best course of action is to replace all of the flat roof sections. The sloped areas of the roofs are constructed with concrete tiles, which have a very long life expectancy, although there are a few tiles that need replacement due to damage.

Project Understanding

The complex includes a large gym, locker rooms, public restrooms, administrative offices, meetings rooms / classrooms / workout rooms. The Laguna Hills Community Center was designed in 1999 by the Architectural firm John Bates Associates, and constructed in 2001. There is no new work that has been identified under the roof. All existing ductwork, terminal boxes and controls are to remain as is. The renovation work for the new upgrade will involve installing new high-efficiency gas/electric roof-top package units to replace each existing unit, and installing one (1) new evaporative cooler to replace the unit that serves the kitchen.

The City would also like to include a preliminary assessment of the (future) planned installation of air conditioning for the gym. This feasibility assessment will verify whether the existing electrical capacity will be adequate to support the new air conditioning units; whether either or both proposed locations for the new units is workable (a cursory review of the structural design of the storage room roof and the front low roof over the offices); and whether there are any issues that would prevent the solution designed for the La Mirada Community Gym from working at the Laguna Hills gym.





Proposed Scope of Services

The proposed scope of services for the new Gym A/C units includes the following:

1. Cursory Structural Assessment of the two low-roof structures; simple review to identify any issue that would prevent the units from being mounted there.
2. Electrical Engineering Assessment of the capacity of existing electrical service to handle the loads for the new (future-unknown) rooftop equipment.

The proposed scope of services for the replacement of all A/C units and one evap. cooler includes the following:

1. Structural/Seismic Assessment of roof structure. Design of new rooftop curbs and seismic anchorage for new rooftop HVAC units. The new units are slightly heavier and larger; however, it is assumed that the existing structural framing will be adequate for the new loads.
2. Mechanical/Plumbing Engineering Assessment including load calculations for year-round usage, based on the number of occupants determined by the City.
3. Electrical Engineering Assessment. Evaluation of electrical service panel and breakers for the rooftop equipment.

Scope of Work

The scope of work will include performing the following tasks:

Site Investigation

1. Mechanical – Evaluate the ability of the existing equipment to meet the ongoing operating requirements of each zone. Identify any zones / equipment that is not capable of meeting the existing / future loads.
2. Electrical – Identify the electrical service provided, the distribution system including panels, transformers, meters, emergency generators. It appears that there is 800A / 480V / 3Ø service, with the main breaker turned down to 600A. The additional 200A available should be enough to power the new loads imposed by the (future) air conditioning of the gymnasium (see Project Exclusions and Assumptions, below).
3. Major electrical equipment to include main service/metering switchgear, sub-panels
4. Condition assessment of the equipment regarding code issues.

Design Development

1. Prepare a complete set of design development drawings with specifications to clearly show the overall design intent of the proposed solution.
2. Meet with the City to review design direction, and any design or equipment options there may be.
3. Design all new work to comply with all applicable Codes.
4. Provide cost estimate for the selected design option contained in the Design Development submittal.
5. Respond to all City design review comments.

Construction Development (65% and 100%)

1. Document revisions to the building and/or site needed to accommodate the Scope of Work.
2. Prepare the 65% and then 100% Construction Documents for City review and approval.
3. Prepare separate demolition documentation for all disciplines.



4. Coordinate all disciplines and their documentation.
5. Prepare associated specifications.
6. Provide calculations needed to support the proposed design.
7. Provide catalogue cuts of all proposed equipment.
8. Provide cost estimates with the 100% CD submission.
9. Address all City design review comments prior to submission for City Plan Check.
10. Make any necessary design modifications to address all plan check comments.

Bid and Award

1. Respond to any questions during bidding processes.
2. Prepare addenda as may be needed.
3. Support the City as needed in the evaluation of bids and the award of a construction contract.

Construction Phase

Provide construction support services beginning at the point when the City preorders all the major equipment, and continuing through the construction phase of the project, which is anticipated to require **30 days**, and through Commissioning and Project Closeout. During this period, services will include:

- Review of all submittals;
- Responding to all RFIs.
- Participation in bi-weekly construction meetings.
- Performance of site observations through the assumed one-month course of construction.
- Preparation of Punch List(s), as required for each discipline.
- Making Final Punch List(s) inspection(s).
- Observation of commissioning activities to be performed by the City's 3rd-party Commissioning Agent.
- Submission of all closeout-related forms and documents to the City.
- Preparation and submission of Record Drawings to the City.

Deliverables

Provide an electronic copy of plans and specifications for review at 65% construction documents; full-sized plot sets for 95% (issued for plan check); six sets of approved jurisdictional plans and specifications (issued for construction); and AutoCAD files. Structural Specifications will be on individual design sheets, not book specs.

Schedule

- IDS to provide City with progress documents for review at 100% Schematic Design, 100% Design Development (essentially 65% construction documents), and at 95% Construction Documents (ready for Plan Check Submittal). City review time is 1 week for the SD and DD, and 2 weeks for the 95% CD set.
- IDS to complete construction documents, and deliver for plan check and jurisdictional approvals, 15 weeks from Notice to Proceed (NTP).

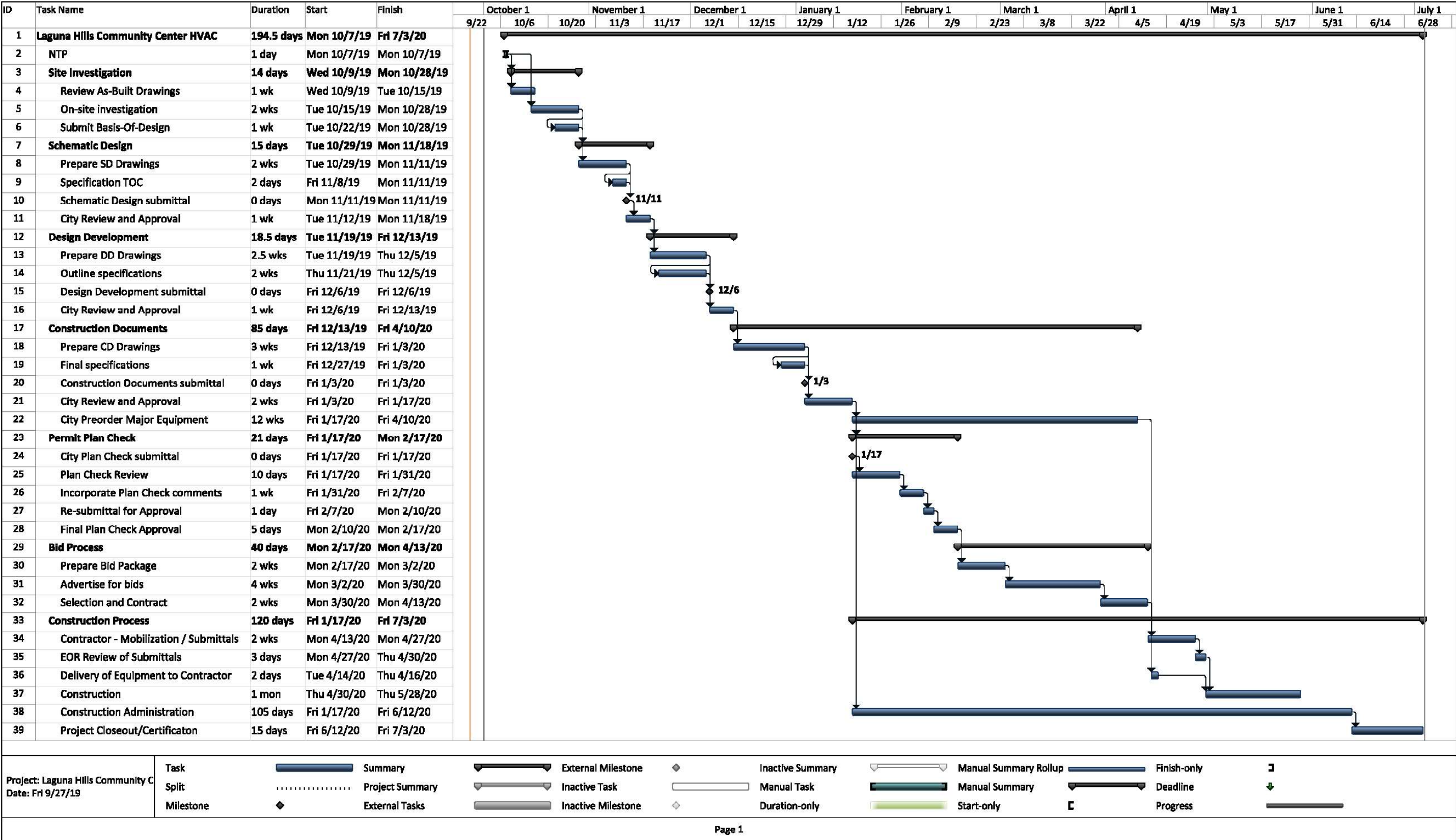


Project Exclusions and Assumptions

- Proposal assumes Architectural, Structural and MEP as-built drawings will be available and legible. IDS will scan all existing as-built drawings to high-resolution pdf, and provide to the City.
- Building staff will be available to guide survey staff and unlock doors for access to equipment.
- Surveys are limited to information that is readily accessible. IDS does not perform destructive testing.
- Any strengthening of the existing lower-roof framing, if required, to support new HVAC equipment, is included. No Structural analysis of the gym roof, or other areas of the buildings, is included.
- During the construction phase, the IDS scope of services and fee is sufficient to support the normal and customary process of reviewing submittals and requests for information/requests for clarification (RFI/RFC) from the contractor. However, work required to correct contractor errors or to process more than one cycle of review and comment on contractor submittals, resulting from contractor noncompliance with comments or incompleteness of submittals, or resulting from product substitutions by the contractor, shall be considered as additional services.
- If IDS determines that more power is needed than is available from the existing SCE service, and that a service upgrade is required by SCE, IDS will prepare an Additional Services proposal for the City.
- City will provide a minimum of 12 months Electric and Gas bills, and will provide 30-day demand logging for the main panel if required for IDS to complete its work.
- Demolition plans associated with project scope of work are included.
- Allowance for meetings and site visits are noted above. Additional meetings and site visits will be billed at time and material per rate schedule.
- Fire Protection drawings (fire sprinklers and fire alarm) are excluded.
- Proposal assumes that this project will not be required to meet LEED standards.
- Construction cost estimates at 65% and 100% are included.
- An ADA path of travel study is not included, but can be performed as an extra service.
- Hazardous storage assessments or studies are not included.



G. Schedule



Attachment: Exhibit A (1962 : Professional Services Agreement for Com Ctr HVAC Design)



H. Communication Plan

Our Project Team consists of a Project Principal/ Manager, QA/QC Manager, project leaders for mechanical, electrical, plumbing, structural engineering and architecture. IDS' Project Manager, Mr. Walter "Sandy" Maclean, PE, CEM is the primary point-of-contact for the City. With more than 30 years of experience working on small-scale to large-scale public and private projects, Sandy has provided many unique and innovative solutions to mechanical systems design challenge. His expertise includes HVAC retrofit and optimization, project development, energy conservation analysis, including energy savings calculations, life cycle cost analysis, and project management.

Mr. Maclean will be responsible for the technical adequacy and design. Additionally, Sandy will ensure the project stays on schedule and within budget by managing staffing hours and expenses, comparing these expenditures with the proposed budget and approved work scope- project architects and engineers will report directly to Sandy. This chain-of-command allows IDS to maximize effectiveness and efficiency and ensure that assignments are completed on time, within budget, and are of defensible quality.

Our organizational chart, shows the project team, including key and support staff, their project roles, and how all members will work through Mr. Maclean to communicate with the City.

As Project Manager, Mr. Maclean will establish project responsibilities, organizational structure and clear lines of reporting within the consulting team. Based on our experience in similar projects, we have developed a clear and efficient management procedure for our services. Sandy will:

- Develop the project schedule and monitor the progress of the project through standing team meeting and monitor the review budget at various stages. Provide progress reports and facilitate the review of the work.
- Monitor the technical performance of the project team, ensure quality and consistency (QC), and ensure detection and resolution of project performance issues before they become problems.
- Ensure that the District is clearly informed of the progress and status of the project.
- Enhance working relationships of team members and the District.

Each project architect or engineer assigned for the required disciplines (civil, mechanical, electrical, etc.) will:

- Have full responsibility for the discipline from start to finish, immersing himself/herself in the project and reporting progress to the Project Principal/ Manager through standing meetings scheduled at the start of the project.
- Assume full responsibility and liability for the work performed by assigned staff and bear full responsibilities for the work.
- Attend necessary meetings, perform required site visits to project site(s) and perform project design / design review.

Emergency Communication Plan

IDS' Emergency Communication Plan for Employees was established to ensure there is a coordinated and effective plan to communicate general emergency information, work status and work assignments to IDS' employees before, during and after an emergency.

Effective employee communication during an emergency is of utmost importance and requires the support of the entire organization. Multiple communication methods will be used in order to have redundancy in case of technology failures due to emergency or other catastrophic conditions. The Emergency Communication Plan describes the communication methods that will be utilized and delegates responsibilities to agencies and to the workforce in general to ensure the success of the program.



Good communication must include inbound and outbound information capabilities: management to employees and employees to management. Advance planning and a comprehensive employee education effort are both key to the effectiveness of the program.

Types of Notifications

E-mail System: IDS' e-mail system has the capability to send a group e-mail to every employee on the network. In addition, departments, divisions and work teams can use e-mail throughout an emergency by creating sub-groups for e-mail distribution. The e-mail system is an effective tool; however, additional communications methods must be used to reach those employees that do not have an e-mail account and those that are not able to access their e-mail due to assignments in the field and/or technology failures.

Calling Tree or Fan-Out Alert: Fan out alerts and/or calling trees are used to contact employees by telephone. This system requires employees to have a designated list of employees they are responsible for calling and then those employees call other employees, etc. This communication method works well to provide specific information regarding individual work assignments.



Appendix: Required Forms

The following forms are located behind this cover page.

- Non-collusion Affidavit
- Certificate of Insurance
- Certification of Proposal
- Corporate Resolution/Authorized signatories list

**Non-collusion Affidavit**

City of Laguna Hills
RFP FOR DESIGN OF THE COMMUNITY CENTER HVAC/ROOF

ATTACHMENT 1**NON-COLLUSION AFFIDAVIT**

The undersigned represents and certifies that:

1. This Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.
2. This Proposal is genuine and not collusive or sham.
3. The Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal and has not directly or indirectly colluded, conspired, connived, or agreed with any other Proposer or anyone else to put in sham proposal or to refrain from submitting to this RFP.
4. The Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price or to fix any overhead, profit or cost element of the proposal price or to secure any advantage against the City of Laguna Hills or of anyone interested in the proposed contract.
5. Proposer affirms that all statements contained in the Proposal and related documents are true and correct.
6. Proposer has not directly or indirectly submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay any fee to any person, corporation, partnership, company, association, organization, RFP depository, or to any member or agent thereof to effectuate a collusive or sham proposal.
7. Proposer has not entered into any arrangement or agreement with any City of Laguna Hills public officer in connection with this proposal.
8. Proposer understands that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct. Executed this 18th day of September, 2019, at Irvine, California.

Signature of Authorized Representative
Rob O'Neil, PE

Name of Authorized Representative

MEP Principal

Title of Authorized Representative



Certificate of Insurance

City of Laguna Hills
RFP FOR DESIGN OF THE COMMUNITY CENTER HVAC/ROOF

ATTACHMENT 2

CONSULTANT'S ACKNOWLEDGEMENT OF COMPLIANCE
WITH INSURANCE REQUIREMENTS FOR
AGREEMENT FOR PROFESSIONAL SERVICES

Consultant agrees, acknowledges, understands and is fully aware of the insurance requirements as specified in **Section 5, Insurance Requirements** of the attached sample Agreement for Professional Services (Attachment 4) and hereby accepts all conditions and requirements as contained therein.

Consultant: IDS Group, Inc.
Name (Please Print or Type)

By:  Principal
Consultant's Signature & Title

Date: September 18, 2019

This executed form must be submitted with proposal.

Attachment: Exhibit A (1962 : Professional Services Agreement for Com Ctr HVAC Design)



Proposal

Design of the Community Center HVAC/Roof



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/2/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Risk Strategies Company 2040 Main Street, Suite 450 Irvine, CA 92614		CONTACT NAME: Risk Strategies Company PHONE (A/C, No, Ext): 949-242-9240 FAX (A/C, No): E-MAIL ADDRESS: syoung@risk-strategies.com	
www.risk-strategies.com		CA DOI License No. 0F06675	
INSURED IDS Group, Inc. 1 Peters Canyon Rd., Ste 130 Irvine CA 92606		INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Property Casualty Co. of America INSURER B: Travelers Indemnity Company INSURER C: Travelers Casualty and Surety Co America INSURER D: INSURER E: INSURER F:	
		NAIC # 25674 25658 31194	

COVERAGES

CERTIFICATE NUMBER: 48486051

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:		6809H717919	5/1/2019	5/1/2020	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY		BA8F335897	5/1/2019	5/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$0		CUP7K2993-3	5/1/2019	5/1/2020	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐ N/A	UB4K463295	5/1/2019	5/1/2020	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000 Per Claim: \$3,000,000 Aggregate: \$3,000,000
C	Professional Liability		107008332	11/12/2018	11/12/2019	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

This certificate issued for Proposal Purposes only.

CERTIFICATE HOLDER

For Proposal Purposes Only

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Michael Christian

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ACORD 25 (2016/03)

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48486051 | 19-20 GL-AL-UL-WC, 18-19 PL | Sherry Young | 5/2/2019 10:58:59 AM (EDT) | Page 1 of 1

**Certification of Proposal**

City of Laguna Hills
RFP FOR DESIGN OF THE COMMUNITY CENTER HVAC/ROOF

ATTACHMENT 3**CERTIFICATION OF PROPOSAL
TO THE CITY OF LAGUNA HILLS**

The undersigned hereby submits its proposal and agrees to be bound by the terms and conditions of this Request for Proposal (RFP). By signing the Certification of Proposal (**Attachment 3**) and submitting a proposal to the City in response to this Request for Proposals, the Proposer hereby represents and certifies that:

- A) No elected or appointed official, officer, or employee of the City has been or shall be compensated, directly or indirectly, in connection with this proposal or for any work connected with this proposal; should any agreement be approved in connection with this Request for Proposals ("Agreement") no elected or appointed official, officer, or employee of the City, during the term of his/her service with the City, shall have any direct or indirect financial interest in the Agreement, or obtain any present, anticipated, or future financial interest or other material benefit arising therefrom;
- B) No elected or appointed official, officer, or employee of the City shall have any financial interest, direct or indirect, in the Agreement nor shall any such official, officer, or employee participate in any decision relating to the Agreement which effects his/her personal financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of state law;
- C) The Proposer and its principals do not have now, nor shall it acquire any financial or business interest that would conflict with the performance of services under the Agreement;
- D) Proposer does not and will not discriminate against any employee or applicant for employment because of race, religion, gender, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy related conditions, political affiliation or opinion, age or medical condition;
- E) By submitting the response to this request, Proposer agrees, if selected, to furnish services to the City in accordance with this RFP;
- F) Proposer has carefully reviewed its proposal and understands and agrees that the City is not responsible for any errors or omissions on the part of the Proposer and that the Proposer is responsible for them;
- G) It is understood and agreed that the City reserves the right to accept or reject any or all proposals and to waive any informality or irregularity in any proposal received by the City;



City of Laguna Hills
RFP FOR DESIGN OF THE COMMUNITY CENTER HVAC/ROOF

H) The proposal response includes all of the commentary, figures and data required by this Request for Proposal.

I) The proposal shall be valid for 180 days from September 19, 2019.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct.

Executed this 18th day of September, 2019, at Irvine, California.

Name of Proposer: IDS Group, Inc.

By: 
(Authorized Signature)

Type Name: Rob O'Neil, PE

Title: MEP Principal

Date: September 18, 2019

From: SACRAMENTO ATTORNEY SERVICE 18004997599

10/24/2007 12:01 #091 P.002/003

A0668140



State of California
Secretary of State

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of _____ page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

OCT 24 2007

DEBRA BOWEN
Secretary of State

From: SACRAMENTO ATTORNEY SERVICE 18004997599

10/24/2007 12:01 #091 P.003/003

A0668140

ENDORSED - FILED
 In the office of the Secretary of State
 of the State of California

OCT 22 2007

**CERTIFICATE OF AMENDMENT
 OF ARTICLES OF INCORPORATION
 OF
 INTEGRATED DESIGN SERVICES, INC.**

The undersigned certify that:

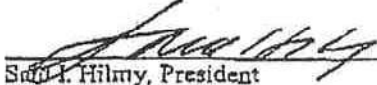
1. They are the President and Secretary, respectively, of Integrated Design Services, Inc., a California corporation.
2. Article I of the Articles of Incorporation of this corporation is now amended to read as follows:

"The name of this corporation is "IDS Group, Inc."

3. The foregoing amendment of Articles of Incorporation has been duly approved by the board of directors.
4. The foregoing amendment of Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with Section 902, California Corporations Code. The total number of outstanding shares of the corporation is 10,000. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50%.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: October 19, 2007


 Sami A. Hilmy, President

Date: October 19, 2007


 Rami Elhassan, Secretary



108562.doc

10/24/2007 WED 12:05 [TX/RX NO 7321] 003



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Assistant City Manager/Director of Public Services

ISSUE: Adoption of a Resolution in Support of the City's Future Application for Proposition 68 Per Capita Funding

RECOMMENDATION: That the City Council adopt a Resolution entitled: “A Resolution of the City Council of the City of Laguna Hills, California, approving application(s) for Per Capita Grant Funds.”

SUMMARY:

Proposition 68, a Bond Act, was placed on the ballot via Senate Bill 5 (DeLeon, Chapter 852, statutes of 2017), and approved by voters on June 5, 2018. The proceeds of the issued bonds are available to public agencies, for, among other authorized uses, parks and recreation programs through a per capita allocation and per a competitive grant program. Under the Per Capita Program, “Grant recipients are encouraged to utilize awards to rehabilitate existing infrastructure and to address deficiencies in neighborhoods lacking access to the outdoors.”¹ In order to be eligible for the per capita allocation of funds, the City must follow a two-step process consisting of the submission of the attached Resolution by November 1, 2019, followed by the submission of a project application by January 31, 2020. To reserve the City’s access to the per capita allocation of funds, adoption of the attached Resolution is recommended.

¹ OGALS Procedural Guide, page 4, March 2019,

https://www.parks.ca.gov/pages/1008/files/Per_Capita_Program_Procedural_Guide_with_five_percent_March_2019_Draft_3.6.19.pdf

Resolution in Support of Proposition 68 Per Capita Funding

October 8, 2019

Page 2

BACKGROUND:

Proposition 68, the California Drought, Water, Parks, Climate Coastal Protection and Outdoor Access for All Act of 2018 (the “Act”) was approved by the California voters per the election held on June 5, 2018. This bond act authorized the sale of \$4 Billion in State general obligation bonds for the purposes of funding state and local parks improvements, environmental protection and restoration projects, water infrastructure projects, and flood protection projects. The Act has two funding components, a Per Capita Program and a Competitive Grant Program.

The State of California Natural Resources Agency, Department of Parks and Recreation, Office of Grants and Local Services (OGALS) has issued a Procedural Guide for the Per Capita Program which provides the required timeline for access to these funds:

- By November 1, 2019, submit to OGALS the required Resolution authorizing agency funding applications.
- By January 31, 2020, submit to OGALS an application for an eligible project for the use of the per capita grant allocation.
- By March 31, 2020, execute and return to OGALS the required State/Local Agency Per Capita Program Grant Contract.

Staff has prepared the attached Resolution, following the prescribed format in the Procedural Guide, for City Council approval in order to meet the first step deadline of November 1, 2019, for access to the per capita allocation.

In anticipation of the availability of the funding provided in the Proposition 68 Per Capita Program, the City Council approved of the Park Renovation Project, CIP No. 237, in the Fiscal Year 2019/2020 Capital Improvement Program Budget. Given the Per Capita Program requires the funding allocation to only be used at one location, and as was indicated in the CIP No. 237 description, Staff recommends focusing these funds for renovation work at the Laguna Hills Community Center and Sports Complex, the facility with the greatest public use and need. Staff is in process of developing the details of this project application and will present it to the City Council in January 2020. The project application will likely recommend a variety of infrastructure improvements at the Community Center to include such work as replacement of the picnic tables and benches, refurbishment of the picnic shelter, replacement of worn playground area facilities, and a variety of hardscape replacements.

Resolution in Support of Proposition 68 Per Capita Funding

October 8, 2019

Page 3

CEQA FINDINGS:

The proposed Resolution authorizing the filing of the application(s) associated with the Proposition 68 Per Capita Program, as well as any future application(s) that may be filed by the City for per capita grand funds, does not commit the City or any other public agency to a definite course of action, and is merely a preliminary funding step. Therefore, proposed Resolution authorizing the filing of the application(s) associated with the Proposition 68 Per Capita Program, as well as any future application(s) that may be filed by the City for per capita grand funds, does not constitute “approval” of a “project” requiring review under the California Environmental Quality Act (“CEQA”). (CEQA Guidelines § 15352(a); City of Irvine v. County of Orange (2013) 221 Cal.App.4th 846.) Even if the proposed Resolution and any future grant funding application could be considered a “project,” it would be exempt from CEQA review. As explained, the proposed Resolution and any future grant funding application do not have a legally binding effect and thus would fall within CEQA’s statutory exemption for planning and feasibility studies. (CEQA Guidelines § 15262.)

FISCAL IMPACT:

Proposition 68 offers cities and counties a one time "per capita grant" for recreation and park improvement purposes. Cities the size of Laguna Hills are offered up to a \$200,000 grant, subject to providing local funds of 20% matching dollars. The recently approved Capital Improvement Program Budget, per CIP No. 237, identified the requisite matching funds for a Park Renovation project.

ATTACHMENTS:

- Resolution - Prop 68 Applications

RESOLUTION NO. 2019-10-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA HILLS, CALIFORNIA, APPROVING
APPLICATIONS(S) FOR PER CAPITA GRAND FUNDS

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

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Per Capita Grant Program, setting up necessary procedures governing application(s); and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the grantee's Governing Body to certify by resolution the approval of project application(s) before submission of said applications to the State; and

WHEREAS, the City Council of the City of Laguna Hills will enter into a contract with the State of California to complete project(s).

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

SECTION 1. Approves the filing of project application(s) for Per Capita program grant project(s).

SECTION 2. Certifies that said grantee has or will have available, prior to commencement of project work utilizing Per Capita funding, sufficient funds to complete the project(s).

SECTION 3. Certifies that the grantee has or will have sufficient funds to operate and maintain the project(s).

SECTION 4. Certifies that all projects proposed will be consistent with the park and recreation element of the City of Laguna Hills general or recreation plan (PRC §80063(a)).

SECTION 5. Certifies that these funds will be used to supplement, not supplant, local revenues in existence as of June 5, 2018 (PRC §80062(d)).

SECTION 6. Certifies that it will comply with the provisions of §1771.5 of the State Labor Code.

SECTION 7. To the extent practicable, as identified in the "Presidential Memorandum -- Promoting Diversity and Inclusion in Our National Parks, National Forests, and Other Public Lands and Waters," dated January 12, 2017, the City will consider a range of actions that include, but are not limited to, the following (PRC §80001(b)(8)(A-G)):

- (A) Conducting active outreach to diverse populations, particularly minority, low-income, and disabled populations and tribal communities, to increase awareness within those communities and the public generally about specific programs and opportunities.
- (B) Mentoring new environmental, outdoor recreation, and conservation leaders to increase diverse representation across these areas.
- (C) Creating new partnerships with state, local, tribal, private, and nonprofit organizations to expand access for diverse populations.
- (D) Identifying and implementing improvements to existing programs to increase visitation and access by diverse populations, particularly minority, low-income, and disabled populations and tribal communities.
- (E) Expanding the use of multilingual and culturally appropriate materials in public communications and educational strategies, including through social media strategies, as appropriate, that target diverse populations.
- (F) Developing or expanding coordinated efforts to promote youth engagement and empowerment, including fostering new partnerships with diversity-serving and youth-serving organizations, urban areas, and programs.
- (G) Identifying possible staff liaisons to diverse populations.

SECTION 8. Agrees that to the extent practicable, the project(s) will provide workforce education and training, contractor and job opportunities for disadvantaged communities (PRC §80001(b)(5)).

SECTION 9. Certifies that the grantee shall not reduce the amount of funding otherwise available to be spent on parks or other projects eligible for funds under this division in its jurisdiction. A one-time allocation of other funding that has been expended for parks or other projects, but which is not available on an ongoing basis, shall not be considered when calculating a recipient's annual expenditures. (PRC §80062(d)).

SECTION 10. Certifies that the grantee has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide.

SECTION 11. Delegates the authority to the City Manager, or designee, to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope(s).

SECTION 12. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

PASSED, APPROVED AND ADOPTED this 8th day of October 2019.

DON SEDGWICK, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

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

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2019-10-08-X adopted by the City Council of the City of Laguna Hills, California, at a
Regular Meeting thereof held on the 8th day of October 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: Resolution - Prop 68 Applications (1959 : Resolution in Support of Proposition 68 Per Capita Funding)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Janice Reyes
Finance Director

ISSUE: Fiscal Year 2018/2019 Citizens Options for Public Safety (COPS) Fund Budget Amendment

RECOMMENDATION: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, amending the Fiscal Year 2018/2019 Budget for the Citizens Option for Public Safety (COPS) Fund."

SUMMARY:

The State provides supplemental funding to local law enforcement agencies through the Citizen's Option for Public Safety (COPS) grant program, which must be used exclusively to fund frontline municipal police services. These funds are distributed by the State to the County, which is passed to local agencies proportionally based on population, allocated at a minimum of \$100,000. In fiscal year 2018/2019, the City budgeted \$100,000 of COPS grant fund revenues and \$100,000 for the use of these funds in the form as a transfer out to the General Fund. At 2018/19 fiscal year-end, the City received \$148,747 in COPS grant revenue, which exceeded the \$100,000 originally budgeted. In order to utilize these funds, a budget amendment is required. Staff recommends the City Council adopt the attached proposed Resolution amending the FY 2018/19 budget in the amount of \$148,747 in COPS grant revenue and the transfer out to the General Fund in the amount of 150,899, taking into account interest income of \$2,152.

BACKGROUND:

The Citizens Option for Public Safety (COPS) program was originally adopted in AB3229 (Brulte) 1996 with funding from the State general fund. COPS provides funding for:

COPS Fund FY 2018/19 Budget Amendment

October 8, 2019

Page 2

-
- front-line law enforcement (city police, county sheriffs, and police protection districts)
 - county jails
 - district attorneys for prosecution; and
 - local juvenile justice programs (since 2000-01).

State COPS funding is allocated by the State Controller to counties for deposit by the county auditor in a Supplemental Law Enforcement Services Account (SLESA) established in each county. The county auditor is required to allocate the moneys in the county's SLESA within 30 days of the receipt of those moneys from the State Controller.

Front line law enforcement funds are allocated to cities, counties and five police protection districts on a population basis. In FY2000-01 the law was amended to provide a minimum frontline law enforcement allocation of \$100,000 to any local agency receiving funding under the program.

These funds are distributed by the State to the County, which passed to local agencies proportionally based on population with a minimum of \$100,000. In fiscal year 2018/2019, the City budgeted \$100,000 of COPS grant fund revenues and \$100,000 for the use of these funds in the form as a transfer out to the General Fund.

Funds from the COPS program must be used exclusively to fund frontline municipal police services. These moneys must supplement existing services, and may not be used to supplant any existing funding for law enforcement services. SLESA funds must be expended or encumbered no later than June 30 of the fiscal year following receipt or be forfeited to the County Enhancing Law Enforcement Activities Subaccount for reallocation to other law enforcement grants pursuant to law.

At 2018/19 fiscal year-end, the City received \$148,746.54 in COPS grant revenue, which exceeded the \$100,000 originally budgeted. In order to utilize these funds, a budget amendment is required. Staff recommends the City Council adopt the attached proposed Resolution amending the FY 2018/19 budget in the amount of \$148,747 in COPS grant revenue and the transfer out to the General Fund in the amount of 150,899, taking, into account interest income \$2,152.

ATTACHMENTS:

- Resolution - Amending FY 2018/19 COPS Fund Budget

RESOLUTION NO. 2019-10-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING THE FISCAL YEAR 2018/2019 BUDGET FOR THE CITIZENS OPTION FOR PUBLIC SAFETY (COPS) FUND.

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

WHEREAS, the City Council of the City of Laguna Hills approved Resolution 2017-06-13-5 on June 13, 2017, adopting the Operating Budget, Capital Improvement Program, and Other Appropriations for the City of Laguna for the Fiscal Years 2017/2018 – 2018/2019 Biennial Budget; and

WHEREAS, the City received higher than projected restricted revenues from the Citizens Option for Public Safety; and

WHEREAS, the City has established various funds, including various special revenue, capital project and agency funds, to account for revenues and deposits that are restricted to certain activities; and

WHEREAS, interfund transfers represent transfers of resources between funds for the repayment of costs incurred by one fund on behalf of another fund.

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

SECTION 1. Adoption of Recitals. The foregoing recitals set forth above are true and correct and are incorporated by reference herein.

SECTION 2. Approval of Budget Amendment. The City Council hereby approves and adopts the proposed amendments to the Fiscal Year 2018/19 Budget for the Citizens Option for Public Safety (COPS) Fund, as set forth in the following table:

Description	Current Budget	Proposed Amendment	Amended Budget
COPS Grant Revenue	\$ 100,000	\$ 48,747	\$ 148,747
Transfer out to General Fund	\$ 100,000	\$ 50,899	\$ 150,899

PASSED, APPROVED AND ADOPTED this 8th day of October 2019.

DON SEDGWICK, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

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

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2019-10-8-X adopted by the City Council of the City of Laguna Hills, California, at a
Regular Meeting thereof held on the 8th day of October 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Assistant City Manager/Director of Public Services

ISSUE: Side Street Stop Sign Installation on Mustang Drive at Buckskin Drive

RECOMMENDATION: That the City Council: (1) Find and determine that the proposed stop control intersection is not subject to the California Environmental Quality Act pursuant to Sections 15060(C)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(C)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, Cal. Code of Regs, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and (2) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, designating the intersection of Mustang Drive and Buckskin Drive as a stop intersection and authorizing the installation of a one-way side street stop sign on Mustang Drive at Buckskin Drive."

SUMMARY:

Staff was contacted by a resident regarding traffic concern at the uncontrolled T-intersection at Buckskin Drive at Mustang Drive. Based upon the resident's concerns and in accordance with the Residential Streets Management Policy, staff initiated a multi-way stop sign evaluation of the intersection of Buckskin Drive at Mustang Drive. The analysis of this intersection did not identify traffic volume, traffic collision history or site conditions that would support a need for a multi-way stop sign control based upon standard State guidelines. However, a side street stop sign on Mustang Drive at Buckskin Drive is recommended to affirmatively assign the right of way at the intersection. The Traffic Commission, at its meeting of September 18, 2019, approved staff's recommendation.

Side Street Stop Sign Installation on Mustang Drive at Buckskin Drive

October 8, 2019

Page 2

BACKGROUND:

Buckskin Drive is a 40-foot wide residential curvilinear roadway traversing in the east-west direction at the intersection with Mustang Drive. Mustang Drive is a 40-foot wide residential curvilinear roadway traversing in the north-south direction. Both roadways have fronting residential properties, provide space for one lane of travel in each direction with on-street parking allowed, and meet in a “T” intersection with Buckskin Drive as the through street. The speed limit on both roadways is 25 MPH and is posted on both streets. Please see attached Vicinity Map.

Staff was contacted by a resident regarding traffic concern at the uncontrolled T-intersection at Buckskin Drive at Mustang Drive. Based upon the resident’s concerns and in accordance with the Residential Streets Management Policy, staff initiated a multi-way stop sign evaluation of the intersection of Buckskin Drive at Mustang Drive. The multi-way stop sign analysis, performed by Hartzog & Crabill, Inc., attached, determined a three-way stop sign installation is not warranted at this intersection based upon the minimum guidelines established by the California Manual on Uniform Traffic Control Devices (MUTCD) for traffic volumes, traffic collision history and site conditions. However, a one-way side street stop sign installation is recommended as a stop control for the southbound approach of Mustang Drive at Buckskin Drive to improve right-of-way assignment. Based upon the findings in the report, staff concurs with the recommendation to install a side street stop sign on Mustang Drive at Buckskin Drive to affirmatively assign the right of way at the intersection.

The Traffic Commission, at the meeting of September 18, 2019, recommended to the City Council approval of the proposed side street stop sign on Mustang Drive to affirmatively assign the right of way at the intersection at Buckskin Drive. Residents residing within the immediate vicinity of the intersection were notified of this matter being on the City Council agenda.

CEQA FINDINGS:

The stop intersection control is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, Cal. Code of Regs, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Side Street Stop Sign Installation on Mustang Drive at Buckskin Drive

October 8, 2019

Page 3

FISCAL IMPACT:

The installation of one stop sign, white limit line and pavement legends have an anticipated cost of \$800. Funds are available for this work in the 2019-20 Fiscal Year Public Works Maintenance Budget.

ATTACHMENTS:

- Resolution - Stop Sign Installation
- Vicinity Map
- Hartzog & Crabill, Inc. Multi-way Stop Sign Analysis – Buckskin Drive at Mustang Drive, August 19, 2019

RESOLUTION NO. 2019-10-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DESIGNATING THE INTERSECTION OF MUSTANG DRIVE AND BUCKSKIN DRIVE AS A STOP INTERSECTION AND AUTHORIZING THE INSTALLATION OF A ONE-WAY SIDE STREET STOP SIGN ON MUSTANG DRIVE AT BUCKSKIN DRIVE

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

WHEREAS, the intersection of Mustang Drive at Buckskin Drive is a “T” intersection of two residential streets; and

WHEREAS, Buckskin Drive is the through street at its intersection with Mustang Drive; and

WHEREAS, it has been determined by City staff that installation of a side street stop sign control on Mustang Drive at Buckskin Drive will improve right-of-way assignment; and

WHEREAS, the Traffic Commission, at its regularly scheduled meeting of September 18, 2019, recommended to the City Council the installation of a one-way stop sign on Mustang Drive at Buckskin Drive; and

WHEREAS, Vehicle Code Section 21354 authorizes the City to designate any intersection under its exclusive jurisdiction as a stop intersection and erect stop signs at one or more entrances thereto.

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

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

SECTION 2. The intersection of Mustang Drive and Buckskin Drive is hereby designated as a stop intersection.

SECTION 3. The Assistant City Manager/Director of Public Services is hereby directed to and shall cause the installation of a side street stop sign and necessary pavement legends on Mustang Drive at Buckskin Drive established herein.

SECTION 4. The stop sign control authorized in this resolution shall become effective upon posting of the required signage in accordance with Vehicle Code section 21354.

SECTION 5. The City Council finds and determines that the stop intersection control hereby established is not subject to the California Environmental Quality Act pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, Cal. Code of Regs, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

PASSED, APPROVED, AND ADOPTED this 8th day of October 2019.

DON SEDGWICK, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

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

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2019-10-08-X adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 8th day of October 2019, by the following vote:

AYES:

NOES:

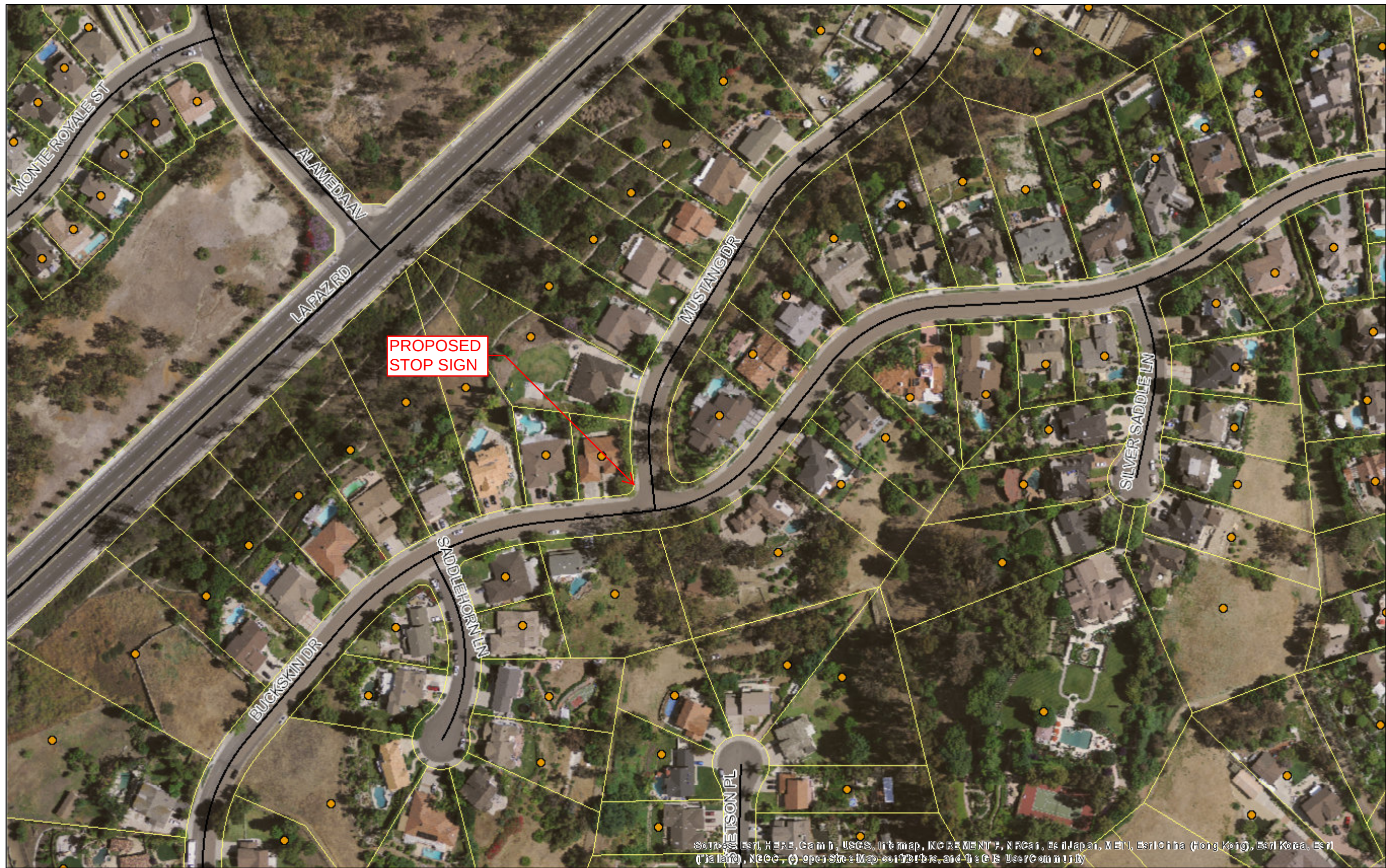
ABSENT:

ABSTAIN:

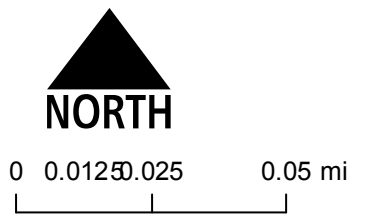
(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: Resolution - Stop Sign Installation (1964 : Side Street Stop Sign Installation on Mustang Drive at Buckskin Drive)



Attachment: Vicinity Map (1964 : Side Street Stop Sign Installation on Mustang Drive at Buckskin Drive)



VICINITY MAP - BUCKSKIN DRIVE AT MUSTANG DRIVE





Trammell Hartzog, President
Gerald J. Stock, PE, TE,
Executive Vice-President

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Suite 101
Tustin, CA 92780

Phone: (714) 731-9455
FAX: (714) 731-9498

www.hartzog-crabill.com

August 19, 2019

Mr. Kenneth H. Rosenfield, PE
Assistant City Manager/Public Services Director
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

Subject: Multi-way Stop Sign Analysis - Buckskin Drive at Mustang Drive

Dear Mr. Rosenfield:

Hartzog & Crabill, Inc. (HCI) has completed a Multi-Way Stop Sign Warrant Analysis for the subject intersection. As you will see in the attached report, our recommendation is for denial for a multi-way stop sign installation at this time.

The analysis was completed in response to the City's request to verify if a multi-way stop sign installation is warranted, and recommended based on meeting standard guidelines. The California Manual of Uniform Traffic Control Devices (California MUTCD) was used for defining the requirements for a multi-way stop sign installation. At the present time, the intersection is un-controlled on all approaches. In overall consideration of existing conditions, and no multi-way stop warrants found satisfied, a multi-way stop sign installation is not recommended at this time. However, a one-way stop sign installation is recommended for the southbound approach of Mustang Drive to improve right-of-way assignment and assist with sight distance. This recommendation includes the installation of a STOP sign and pavement marking, as well as a white limit line. If approved, the cost for this recommendation is estimated at \$800.00.

It has been our pleasure to prepare this analysis for the City of Laguna Hills. If you have any questions or need more information, please feel free to call me at (714) 731-9455.

Very truly yours,
HARTZOG & CRABILL, INC.

A handwritten signature in blue ink, appearing to read 'Gerald J. Stock', is written over a horizontal line.

Gerald J. Stock, PE, TE
Executive Vice President
City & Traffic Engineering Services

Attach: Multi-way Stop Control Warrants Analysis Report

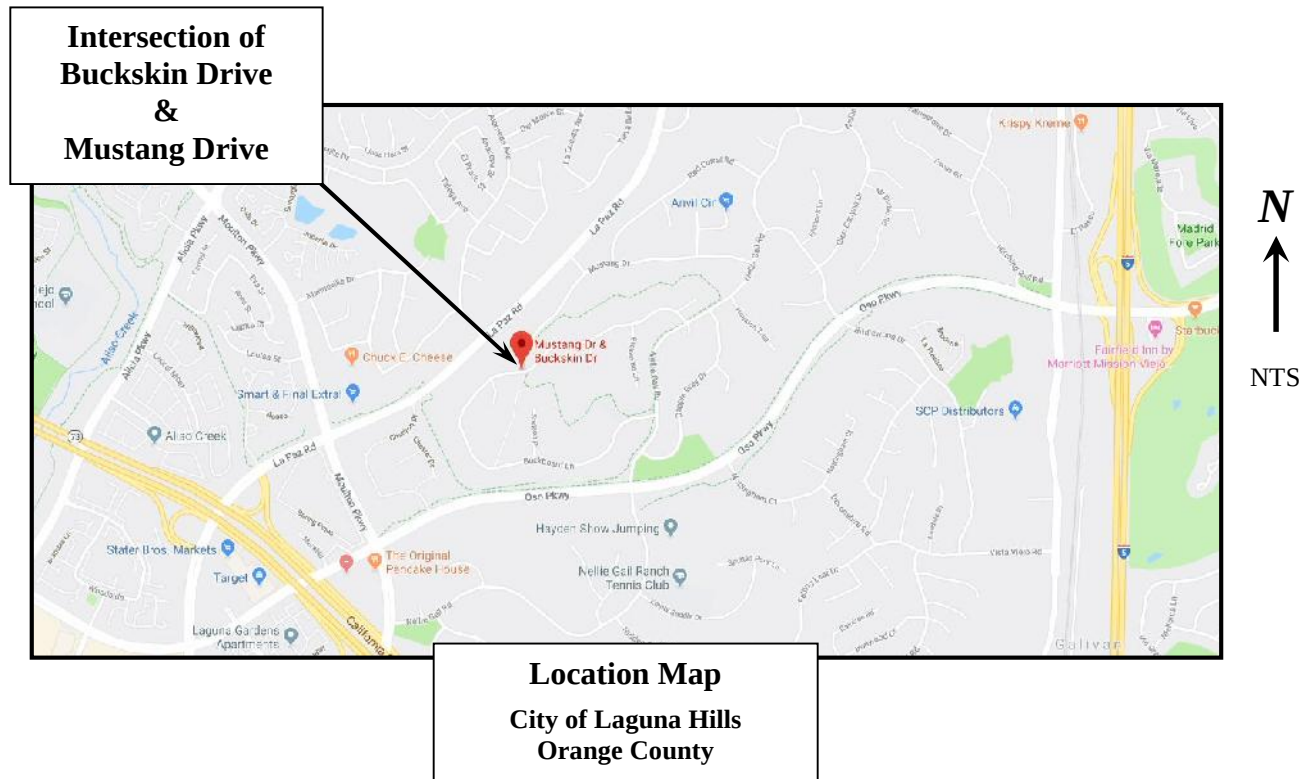
Attachment: Hartzog & Crabill, Inc. Multi-way Stop Sign Analysis - Buckskin Drive at Mustang Drive, August 19, 2019 (1964 : Side Street Stop

MULTIWAY STOP CONTROL WARRANTS ANALYSIS BUCKSKIN DRIVE AT MUSTANG DRIVE IN THE CITY OF LAGUNA HILLS, CA

INTRODUCTION

The City of Laguna Hills requested Hartzog & Crabill, Inc. (HCI) to complete a Multiway Stop Warrants Analysis at the intersection of Buckskin Drive and Mustang Drive. This analysis was completed in order to verify if a three-way stop sign installation is warranted and recommended based on meeting standard guidelines.

The location is a typical T-intersection with Buckskin Drive running diagonally in the east-west directions and Mustang Drive running diagonally in the north-south directions. The intersection is located south of La Paz Road and east of Moulton Parkway (*see Location Map below*). The intersection is entirely within the City of Laguna Hills jurisdiction. At the present time, there is no intersection traffic control installed on either street (i.e., uncontrolled approaches).



Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA**BACKGROUND**

Buckskin Drive is a curvilinear, east-west local roadway with primarily single-family residential properties on both sides of the street. At the intersection with Mustang Drive, the roadway is approximately 40 feet wide, and the 2-lane roadway provides for one lane of traffic in each direction, which are not separated by centerline striping. There are no marked crosswalks across Buckskin Drive at/near the intersection. However, there are advance Horse Xing pavement markings, as well as Yield limit line pavement markings and Equestrian Xing warning signs located just east of the intersection. The roadway does have curb, gutter, and sidewalk improvements on the north side of the street and only curb and gutter on the south side. Buckskin Drive has a posted speed limit of 25 MPH. On-street parking is allowed on both sides of the street. Currently, there are no STOP signs or other types of traffic control on Buckskin Drive (uncontrolled) at its intersection with Mustang Drive.

See Exhibit 1 (next page) for photo images of Buckskin Drive.

Mustang Drive is a curvilinear, north-south local roadway with primarily single-family residential properties on both sides of the street. At the T-intersection with Buckskin Drive, which is the southerly terminus of Mustang Drive, the roadway is approximately 40 feet wide. The 2-lane roadway provides for one lane of traffic in each direction, which are not separated by centerline striping. There are no marked crosswalks across Mustang Drive. The roadway does have curb, gutter, parkway and sidewalk improvements on the west side and only curb and gutter on the east side. Mustang Drive has a posted speed limit of 25 MPH, along with an adjacent '25' pavement marking. On-street parking is allowed on both sides of the street. Currently, there is no STOP sign or other types of traffic control on Mustang Drive (uncontrolled) at its intersection with Buckskin Drive.

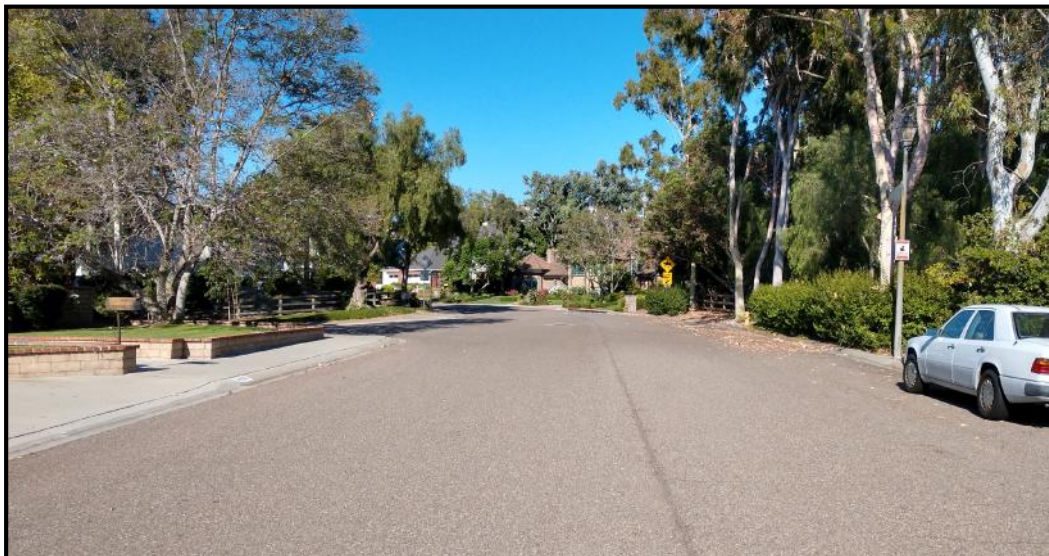
See Exhibit 2 (following page) for a photo image of Mustang Drive.

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA

EXHIBIT 1



BUCKSKIN DRIVE (LOOKING WESTBOUND) @ MUSTANG DRIVE



BUCKSKIN DRIVE (LOOKING EASTBOUND) @ MUSTANG DRIVE

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA

EXHIBIT 2



MUSTANG DRIVE (LOOKING SOUTHBOUND) @ BUCKSKIN DRIVE

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA**WARRANT GUIDELINES**

As is common practice with many municipal agencies, the City of Laguna Hills follows State guidelines for determining if traffic control devices, such as multi-way stop signs, should be installed. Therefore, the prevailing source used for this analysis is the State of California Manual on Uniform Traffic Control Devices (*California MUTCD*). The California MUTCD contains minimum guidelines regarding traffic volumes, collisions, speeds, visibility, and other criteria in order to satisfy the requirements, in this case, for the recommendation and installation of a 3-way (multi-way) stop or a one-way stop.

The California MUTCD **Multi-way Stop** Applications Guidance criteria are described in the following four main parts:

- 1) As an interim measure where traffic control signals are justified;
- 2) Reported crashes – five or more in a 12-month period that are susceptible to correction by a multi-way stop installation;
- 3) Minimum traffic and pedestrian volumes, speeds, and delay; and,
- 4) Where a combination of the above criteria are all satisfied to 80 percent.

If any one, or a combination, of these criteria is met, then a multi-way stop application should be considered. If these criteria are not met, the installation of an unwarranted multi-way stop sign installation is typically not recommended.

The California MUTCD guidelines describing Right-of-Way at Intersections, STOP Sign Applications, Multi-way Stop Applications, and Yield Sign Applications are included in Appendix A.

MULTIWAY STOP ANALYSIS

The California MUTCD **Multi-way Stop** Applications section contains guidelines, such as minimum collisions and traffic volumes necessary for the justification of multi-way stop control. The general guidelines given for a stop sign application begin with using engineering judgment for the installation of a stop sign(s) on a street entering a through highway and where high speeds on the cross street make entry difficult, or due to restricted view, or when crash records indicate a need for control by a stop sign. Further guidance criteria found in the California MUTCD include the following important statements: ***“YIELD or STOP signs should not be used for speed control... In most cases, the street carrying the lowest volume of traffic should be controlled... A STOP (R1-1) sign is not a ‘cure-all’ and is not a substitute for other traffic control devices. Often, the need for a STOP (R1-1) sign can be eliminated if the sight distance is increased by removing obstructions... A YIELD or STOP sign should not be installed on the higher volume roadway unless justified by an engineering study... Multi-way stop control is used where the volume of traffic on the intersecting roads is approximately equal...”***

Collision History

The guidelines for **Multi-way Stop** Applications contained in the California MUTCD regarding collisions, or crashes, require a minimum of five (5) reported crashes occurring in a 12-month period that are susceptible to correction by a multi-way stop installation in order to satisfy this warrant. Such crashes include right- and left-turn collisions, as well as right-angle collisions (i.e., broadside, or head-on) and pedestrian-vehicle collisions. The latest available collision history for the intersection was gathered by HCI from the State of California Highway Patrol (CHP) Statewide Integrated Traffic Records System website (*i-SWITRS*). A comprehensive 5-year traffic collision history summary report was prepared for this intersection and reviewed for collisions susceptible to correction by the installation of a multi-way stop. Table 1 (*next page*) provides the most recent summary of collision history occurring at or near this intersection.

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA**Collision History (continued)**

TABLE 1
SWITRS COLLISION SUMMARY

Intersection	2013-14		2015		2016		2017-18	
	Date	Type of Coll. / Correctible?	Date	Type of Coll. / Correctible?	Date	Type of Coll. / Correctible?	Date	Type of Coll. / Correctible?
Buckskin Drive at Mustang Drive		<i>None reported</i>		<i>None reported</i>		<i>None reported</i>		<i>None reported</i>

Notes: Information above is derived per the latest 5-year intersection traffic collision database report gathered from CHP-SWITRS (*i-SWITRS website*).

- 1) Type of Coll. = Type of Collision (*i.e., broadside, rear-end, etc.*)
- 2) Correctible? = Yes / No

As shown, there have been no reported collisions, at or near this intersection over the past (5) years of available SWITRS collision data. Since the collision warrant requires a minimum of (5) reported crashes susceptible to correction by a multi-way stop, to occur within a 12-month period, the collision warrant is not satisfied. ***The SWITRS traffic collision data report is included in Appendix B.***

Traffic Volumes

HCI collected Average Daily Traffic (ADT) vehicular approach counts on Tuesday, July 9, 2019 in order to account for vehicles that typically use this T-intersection. The ADT approach count for Buckskin Drive is 389 vehicles per day with the highest AM peak-hour approach volume having 33 vehicles, and 32 vehicles in the PM peak-hour. The ADT approach count for Mustang Drive is 366 vehicles with the highest AM peak-hour approach volume having 25 vehicles, and 45 vehicles in the PM peak-hour. Table 2 (next page) provides a breakdown of the approach volumes. ***The traffic volume data collected for this intersection is included in Appendix C.***

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA**Traffic Volumes (continued)**

TABLE 2
HIGHEST 24-HOUR INTERSECTION APPROACH VEHICLE COUNTS
BUCKSKIN DRIVE AT MUSTANG DRIVE

Street	Direction	ADT Volume	Directional Split	Highest Hourly Volume
Buckskin Drive	Eastbound	175	45%	16 (9 - 10AM)
	Westbound	214	55%	19 (8 - 9AM) (10-11AM)
Mustang Drive				
	Southbound	366	100%	45 (6 - 7PM)

Buckskin Drive is considered the ‘through’ or ‘major’ street at this residential T-intersection since it carries slightly higher volumes, and drivers are not required to slow down, or even stop, before proceeding straight, left or right. In comparison, Mustang Drive is considered the ‘minor’ street as drivers on Mustang Drive are required to slow to a stop at Buckskin Drive and look both ways before making a left or right turn. It is typically expected that the traffic volumes on the minor street are significantly less than those on the major street. As can be seen from the table above, this is not the case, as Mustang Drive carries approximately 48% of the entire traffic entering the intersection (Buckskin Drive carries 52% of entering traffic).

A part of the California MUTCD guideline criteria also calls for a reduction in the required minimum volumes when the critical approach speed (*or 85th-percentile speed*) on the major street exceeds 40 MPH. If this is the case, the minimum vehicular volumes to be met for a multiway stop sign installation are reduced to 70%. As mentioned, the speed limits on both streets are 25 MPH. Field observations during our site visit confirmed vehicles were not regularly speeding over the speed limit near the intersection, but were considered typical and what may be expected for two-lane local-type roadways. As the speed limits are less than the 40 MPH limit required to reduce traffic volumes, the 70% minimum volumes for a multi-way stop sign analysis are not applicable, and the 100% minimum volumes were analyzed on the next page.

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA

Traffic Volumes (continued)

It is important to note that the hourly vehicle traffic counts shown in Table 2 above are given for the highest hour of traffic for each direction, and serve as a good indicator to compare with the required minimum hourly traffic volumes in the California MUTCD multi-way stop guidelines. It must also be mentioned that the average hourly minimum volumes for a multi-way stop application are to be satisfied for any eight (8) hours of an average day (not just for one hour).

Table 3 below shows the California MUTCD minimum traffic volume guidelines for a Multi-way Stop Application in comparison with the highest 8-hour traffic count data collected at this intersection. Both Parts 1 and 2 of the minimum volume warrants below must be satisfied in order to fulfill the traffic volume warrant.

TABLE 3
MULTIWAY STOP SIGN WARRANT FOR MINIMUM TRAFFIC VOLUMES
BUCKSKIN DRIVE AT MUSTANG DRIVE

Part 1. The vehicular volume entering the intersection from the major street approaches (total of both approaches) averages at least 300 vehicles per hour for any (8) hours of an average day, Results: No, average (25) vehicles per hour Meets 8% of the required hourly traffic volume	and	Part 2. The combined vehicular, pedestrian, and bicycle volume entering the intersection from the minor street approaches (total of both approaches) averages at least 200 units per hour for the same (8) hours, with an average delay to minor-street vehicular traffic of at least 30 seconds per vehicle during the highest hour, Results: No, average (28) vehicles per hour Meets 14% of the required hourly traffic volume	but	Part 3. If the 85th-percentile approach speed of the major-street traffic exceeds 65 km/h or exceeds 40 mph, the minimum vehicular volume warrants are (70) percent of the above values. Results: No, 85th percentile speed on major-street does not exceed 40 mph
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As shown above, the average hourly intersection approach traffic volumes for the highest 8-hour period did not satisfy both Parts 1 and 2 (*8% major street / 14% minor street*). Therefore, the minimum traffic volume warrant is not satisfied.

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA**Visibility**

Impaired visibility, or restricted sight distance, due to the geometry of the intersection and possible obstructions was carefully considered during our field-review of the surrounding residential property environment. The geometry of the intersection includes an approximate 90° angle, and both roadways have gradual horizontal and vertical curvature going away from the intersection.

Driver sight distance was measured from the side-street approach to the intersection, as southbound traffic on Mustang Drive is required to stop, before proceeding to make a left or right-turn. The measured distance was derived from the stopping sight distance guidelines found in the California MUTCD (*see Appendix D*). In this reference, a 25 MPH roadway speed recommends a minimum Stopping Sight Distance of 155 feet. This distance was used when looking towards approaching, uncontrolled traffic along Buckskin Drive. More specifically, this stopping sight distance was field-measured from a typical ‘stopped’ vehicle location on Mustang Drive at the intersection looking towards the oncoming lanes of cross-traffic on Buckskin Drive. An orange cone was placed at this distance and a photograph was taken from a stopped driver’s perspective.

(See sight distance photos in Exhibit 3 on the following page).

As Exhibit 3 shows, when looking from Mustang Drive, a driver does have a clear line of sight to the minimum sight distance at 155 feet when looking westerly. However, when looking easterly, the horizontal roadway curvature of Buckskin Drive does not provide the minimum sight distance.

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA

EXHIBIT 3



Southbound BUCKSKIN DRIVE (Looking West) @ MUSTANG DRIVE



Southbound BUCKSKIN DRIVE (Looking East) @ MUSTANG DRIVE

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA

MULTIWAY STOP ANALYSIS SUMMARY

The analysis of the four (4) main criteria provided in the California MUTCD regarding **Multi-way Stop** Applications showed that this intersection did not meet the minimum guidelines to justify stopping the major roadway (Buckskin Drive). The four main criteria analyzed were: 1) As an interim measure where traffic control signals are justified; 2) Reported collisions – a correctible crash problem; 3) Traffic and pedestrian volumes, speeds, and delay; and 4) Where a combination of the above criteria are satisfied to 80 percent.

In summary, the collision history at the intersection resulted in (0) SWITRS-reported correctible collisions during the last five years of available data, where the minimum guideline calls for at least five (5) correctible collisions in a 12-month period. The average minimum hourly minor street traffic volumes required for a multi-way stop that are to be satisfied for any eight (8) hours in an average day were also not close to being met. Excessive delay to any approach was not observed in terms of vehicles stopping and waiting for a gap on the major roadway due to the overall lower traffic volumes. Therefore, since intersection collision history and traffic volumes did not satisfy the minimum guidelines, it can also be derived that a traffic signal is not justified as an interim measure at this intersection (as mentioned above). The 80% combined criteria were also not met as both the collisions and minimum traffic volumes were not satisfied to this percentage. If the California MUTCD criteria is not met, the location is typically not recommended for installation of a multi-way stop.

However, engineering judgment should always be included in any decision regarding traffic safety improvements. Intersection lighting was also verified and found to be adequate as there was one street light post on the southwest corner area. In regards to pedestrian and bicycle activity, field observations confirmed a low activity of both. However, it was determined that a driver does not have a clear line of sight when looking easterly from Mustang Drive due to the roadway curvature.

Multiway Stop Sign Warrants Analysis - Buckskin Dr at Mustang Dr, in the City of Laguna Hills, CA

MULTIWAY STOP ANALYSIS SUMMARY (continued)

Therefore, based upon engineering judgment, it is determined that stopping traffic on Buckskin Drive at Mustang Drive is not required at this time to enhance the traffic safety at this intersection.

RECOMMENDATIONS

In overall consideration of the analysis criteria in this report, a multi-way (3-way) stop sign installation is not recommended at this time for the intersection of Buckskin Drive and Mustang Drive.

However, a one-way stop sign installation is recommended for the southbound approach of Mustang Drive in order to improve right-of-way assignment and assist with sight distance. This recommendation includes the installation of a STOP sign and STOP pavement marking, as well as a white limit line on Mustang Drive. If approved, the cost for this recommendation is estimated at \$800.00.

APPENDIX A

**MULTIWAY STOP APPLICATIONS
GUIDELINES:**

CALIFORNIA MUTCD

Standard:

03 Except as provided in Paragraphs 4 and 5, the minimum sizes for regulatory signs facing traffic on multi-lane conventional roads shall be as shown in the Multi-lane column of Table 2B-1 and 2B-1(CA).

Option:

04 Where the posted speed limit is 35 mph or less on a multi-lane highway or street, other than for a STOP sign, the minimum size shown in the Single Lane column in Table 2B-1 and 2B-1(CA) may be used.

05 Where a regulatory sign, other than a STOP sign, is placed on the left-hand side of a multi-lane roadway in addition to the installation of the same regulatory sign on the right-hand side or the roadway, the size shown in the Single Lane column in Table 2B-1 and 2B-1(CA) may be used for both the sign on the right-hand side and the sign on the left-hand side of the roadway.

Standard:

06 A minimum size of 36 x 36 inches shall be used for STOP signs that face multi-lane approaches.

07 Where side roads intersect a multi-lane street or highway that has a speed limit of 45 mph or higher, the minimum size of the STOP signs facing the side road approaches, even if the side road only has one approach lane, shall be 36 x 36 inches.

08 Where side roads intersect a multi-lane street or highway that has a speed limit of 40 MPH or lower, the minimum size of the STOP signs facing the side road approaches shall be as shown in the Single Lane or Multi-lane columns of Table 2B-1 and 2B-1(CA) based on the number of approach lanes on the side street approach.

Guidance:

09 The minimum sizes for regulatory signs facing traffic on exit and entrance ramps should be as shown in the column of Table 2B-1 and 2B-1(CA) that corresponds to the mainline roadway classification (Expressway or Freeway). If a minimum size is not provided in the Freeway column, the minimum size in the Expressway column should be used. If a minimum size is not provided in the Freeway or Expressway Column, the size in the Oversized column should be used.

Section 2B.04 Right-of-Way at Intersections**Support:**

01 State or local laws written in accordance with the "Uniform Vehicle Code" (see Section 1A.11) establish the right-of-way rule at intersections having no regulatory traffic control signs such that the driver of a vehicle approaching an intersection must yield the right-of-way to any vehicle or pedestrian already in the intersection. When two vehicles approach an intersection from different streets or highways at approximately the same time, the right-of-way rule requires the driver of the vehicle on the left to yield the right-of-way to the vehicle on the right. The right-of-way can be modified at through streets or highways by placing YIELD (R1-2) signs (see Sections 2B.08 and 2B.09) or STOP (R1-1) signs (see Sections 2B.05 through 2B.07) on one or more approaches.

Guidance:

02 Engineering judgment should be used to establish intersection control. The following factors should be considered:

- A. Vehicular, bicycle, and pedestrian traffic volumes on all approaches;
- B. Number and angle of approaches;
- C. Approach speeds;
- D. Sight distance available on each approach; and
- E. Reported crash experience.

03 YIELD or STOP signs should be used at an intersection if one or more of the following conditions exist:

- A. An intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law;
- B. A street entering a designated through highway or street; and/or
- C. An unsignalized intersection in a signalized area.

04 In addition, the use of YIELD or STOP signs should be considered at the intersection of two minor streets or local roads where the intersection has more than three approaches and where one or more of the following conditions exist:

- A. The combined vehicular, bicycle, and pedestrian volume entering the intersection from all approaches averages more than 2,000 units per day;
 - B. The ability to see conflicting traffic on an approach is not sufficient to allow a road user to stop or yield in compliance with the normal right-of-way rule if such stopping or yielding is necessary; and/or
 - C. Crash records indicate that five or more crashes that involve the failure to yield the right-of-way at the intersection under the normal right-of-way rule have been reported within a 3-year period, or that three or more such crashes have been reported within a 2-year period.
- ⁰⁵ YIELD or STOP signs should not be used for speed control.

Support:

- ⁰⁶ Section 2B.07 contains provisions regarding the application of multi-way STOP control at an intersection.

Guidance:

- ⁰⁷ Once the decision has been made to control an intersection, the decision regarding the appropriate roadway to control should be based on engineering judgment. In most cases, the roadway carrying the lowest volume of traffic should be controlled.
- ⁰⁸ A YIELD or STOP sign should not be installed on the higher volume roadway unless justified by an engineering study.

Support:

- ⁰⁹ The following are considerations that might influence the decision regarding the appropriate roadway upon which to install a YIELD or STOP sign where two roadways with relatively equal volumes and/or characteristics intersect:

- A. Controlling the direction that conflicts the most with established pedestrian crossing activity or school walking routes;
- B. Controlling the direction that has obscured vision, dips, or bumps that already require drivers to use lower operating speeds; and
- C. Controlling the direction that has the best sight distance from a controlled position to observe conflicting traffic.

Standard:

- ¹⁰ Because the potential for conflicting commands could create driver confusion, YIELD or STOP signs shall not be used in conjunction with any traffic control signal operation., except in the following cases:
- A. If the signal indication for an approach is a flashing red at all times;
 - B. If a minor street or driveway is located within or adjacent to the area controlled by the traffic control signal, but does not require separate traffic signal control because an extremely low potential for conflict exists; or
 - C. If a channelized turn lane is separated from the adjacent travel lanes by an island and the channelized turn lane is not controlled by a traffic control signal.

^{10a} STOP signs shall not be erected at any entrance to an intersection controlled by traffic signals. Refer to CVC 21355(a).

Option:

- ^{10b} YIELD or STOP signs may be used at a channelized turn lane if it is separated from the adjacent travel lanes moving in same direction by an island and the channelized turn lane is not controlled by a traffic control signal.

Standard:

- ¹¹ Except as provided in Section 2B.09, STOP signs and YIELD signs shall not be installed on different approaches to the same unsignalized intersection if those approaches conflict with or oppose each other.
- ¹² Portable or part-time STOP or YIELD signs shall not be used except for emergency and temporary traffic control zone purposes.
- ¹³ A portable or part-time (folding) STOP sign that is manually placed into view and manually removed from view shall not be used during a power outage to control a signalized approach unless the maintaining agency establishes that the signal indication that will first be displayed to that approach upon restoration of power is a flashing red signal indication and that the portable STOP sign will be manually removed from view prior to stop-and-go operation of the traffic control signal.

Option:

¹⁴ A portable or part-time (folding) STOP sign that is electrically or mechanically operated such that it only displays the STOP message during a power outage and ceases to display the STOP message upon restoration of power may be used during a power outage to control a signalized approach.

Support:

¹⁵ Section 9B.03 contains provisions regarding the assignment of priority at a shared-use path/ roadway intersection.

Section 2B.05 STOP Sign (R1-1) and ALL WAY Plaque (R1-3P)

Standard:

⁰¹ When it is determined that a full stop is always required on an approach to an intersection, a STOP (R1-1) sign (see Figure 2B-1) shall be used.

⁰² The STOP sign shall be an octagon with a white legend and border on a red background.

⁰³ Secondary legends shall not be used on STOP sign faces.

⁰⁴ At intersections where all approaches are controlled by STOP signs (see Section 2B.07), an ALL WAY supplemental plaque (R1-3P) shall be mounted below each STOP sign. The ALL WAY plaque (see Figure 2B-1) shall have a white legend and border on a red background.

⁰⁵ The ALL WAY plaque shall only be used if all intersection approaches are controlled by STOP signs.

⁰⁶ Supplemental plaques with legends such as 2-WAY, 3-WAY, 4-WAY, or other numbers of ways shall not be used with STOP signs.

Support:

⁰⁷ The use of the CROSS TRAFFIC DOES NOT STOP (W4-4P) plaque (and other plaques with variations of this word message) is described in Section 2C.59.

Guidance:

⁰⁸ Plaques with the appropriate alternative messages of *TRAFFIC FROM LEFT (RIGHT) DOES NOT STOP (W4-4aP)* or *ONCOMING TRAFFIC DOES NOT STOP (W4-4bP)* should be used at intersections where STOP signs control all but one approach to the intersection, unless the only non-stopped approach is from a one-way street.

Option:

⁰⁹ An EXCEPT RIGHT TURN (R1-10P) plaque (see Figure 2B-1) may be mounted below the STOP sign if an engineering study determines that a special combination of geometry and traffic volumes is present that makes it possible for right-turning traffic on the approach to be permitted to enter the intersection without stopping.

Support:

¹⁰ The design and application of Stop Beacons are described in Section 4L.05.

¹¹ A STOP (R1-1) sign is not a "cure-all" and is not a substitute for other traffic control devices. Often, the need for a STOP (R1-1) sign can be eliminated if the sight distance is increased by removing obstructions.

Through Highways

Option:

¹² STOP (R1-1) signs may be installed either at or near the entrance to a State highway, except at signalized intersections, or at any location so as to control traffic within an intersection. Refer to CVC 21352 and 21355. See Section 1A.11 for information regarding this publication.

Support:

¹³ When STOP (R1-1) signs or traffic control signals have been erected at all entrances, a highway constitutes a through highway. Refer to CVC 600.

¹⁴ Authority to place STOP (R1-1) signs facing State highway traffic is delegated to the Caltrans District Directors.

Option:

¹⁵ Local authorities may designate any highway under their jurisdiction as a through highway and install STOP (R1-1) signs in a like manner. Refer to CVC 21354.

Standard:

¹⁶ No local authority shall erect or maintain any STOP (R1-1) sign or other traffic control device requiring a stop, on any State highway, except by permission of Caltrans. Refer to CVC 21353.

Support:

¹⁷ Caltrans will grant such permission only when an investigation indicates that the STOP (R1-1) sign will benefit traffic.

Section 2B.06 STOP Sign Applications

Guidance:

- ⁰¹ At intersections where a full stop is not necessary at all times, consideration should first be given to using less restrictive measures such as YIELD signs (see Sections 2B.08 and 2B.09).
- ⁰² The use of STOP signs on the minor-street approaches should be considered if engineering judgment indicates that a stop is always required because of one or more of the following conditions:
 - A. The vehicular traffic volumes on the through street or highway exceed 6,000 vehicles per day;
 - B. A restricted view exists that requires road users to stop in order to adequately observe conflicting traffic on the through street or highway; and/or
 - C. Crash records indicate that three or more crashes that are susceptible to correction by the installation of a STOP sign have been reported within a 12-month period, or that five or more such crashes have been reported within a 2-year period. Such crashes include right-angle collisions involving road users on the minor-street approach failing to yield the right-of-way to traffic on the through street or highway.

Support:

⁰³ The use of STOP signs at grade crossings is described in Sections 8B.04 and 8B.05.

Section 2B.07 Multi-Way Stop Applications

Support:

⁰¹ Multi-way stop control can be useful as a safety measure at intersections if certain traffic conditions exist. Safety concerns associated with multi-way stops include pedestrians, bicyclists, and all road users expecting other road users to stop. Multi-way stop control is used where the volume of traffic on the intersecting roads is approximately equal.

⁰² The restrictions on the use of STOP signs described in Section 2B.04 also apply to multi-way stop applications.

Guidance:

- ⁰³ The decision to install multi-way stop control should be based on an engineering study.
- ⁰⁴ The following criteria should be considered in the engineering study for a multi-way STOP sign installation:
 - A. Where traffic control signals are justified, the multi-way stop is an interim measure that can be installed quickly to control traffic while arrangements are being made for the installation of the traffic control signal.
 - B. Five or more reported crashes in a 12-month period that are susceptible to correction by a multi-way stop installation. Such crashes include right-turn and left-turn collisions as well as right-angle collisions.
 - C. Minimum volumes:
 - 1. The vehicular volume entering the intersection from the major street approaches (total of both approaches) averages at least 300 vehicles per hour for any 8 hours of an average day; and
 - 2. The combined vehicular, pedestrian, and bicycle volume entering the intersection from the minor street approaches (total of both approaches) averages at least 200 units per hour for the same 8 hours, with an average delay to minor-street vehicular traffic of at least 30 seconds per vehicle during the highest hour; but
 - 3. If the 85th-percentile approach speed of the major-street traffic exceeds 40 mph, the minimum vehicular volume warrants are 70 percent of the values provided in Items 1 and 2.
 - D. Where no single criterion is satisfied, but where Criteria B, C.1, and C.2 are all satisfied to 80 percent of the minimum values. Criterion C.3 is excluded from this condition.

Option:

- ⁰⁵ Other criteria that may be considered in an engineering study include:
 - A. The need to control left-turn conflicts;
 - B. The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes;
 - C. Locations where a road user, after stopping, cannot see conflicting traffic and is not able to negotiate the intersection unless conflicting cross traffic is also required to stop; and

APPENDIX B

SWITRS COLLISION HISTORY

CITY OF LAGUNA HILLS
INTERSECTION OF MUSTANG DRIVE AND BUCKSKIN DRIVE
5-YEAR SWITRS COLLISION DATABASE
JAN. 1, 2013 - NOV. 30, 2018

CASE ID	COLLISION DATE	COLL. TIME	PRIMARY ROAD	SECONDARY ROAD	DIST.	DIR.	INTERS.	WEATH. 1	COLL. SEVERITY	PRIM. COLL. FACT.	PCF VIOL. CAT.	PCF VIOL.	HIT AND RUN	TYPE OF COLL.	MOTOR VEHICLE INVOLVED WITH	ROAD SURF.
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NO COLLISIONS REPORTED FOR THE SUBJECT INTERSECTION.

NOTES:

Weather 1

A - Clear
 B - Cloudy
 C - Raining
 D - Snowing
 E - Fog
 F - Other
 G - Wind
 - - Not Stated

Collision Severity

1 - Fatal
 2 - Injury (Severe)
 3 - Injury (Other Visible)
 4 - Injury (Complaint of Pain)
 0 - PDO (Property Damage Only)

Primary Collision Factor

A - (Vehicle) Code Violation
 B - Other Improper Driving
 C - Other Than Driver
 D - Unknown
 E - Fell Asleep
 - - Not Stated

PCF Violation Category

01 - Driving or Bicycling Under Influe
 02 - Impeding Traffic
 03 - Unsafe Speed
 04 - Following Too Closely
 05 - Wrong Side of Road
 06 - Improper Passing
 07 - Unsafe Lane Change
 08 - Improper Turning
 09 - Automobile ROW
 10 - Pedestrian ROW
 11 - Pedestrian Violation
 12 - Traffic Signals and Signs
 13 - Hazardous Parking
 14 - Lights
 15 - Brakes
 16 - Other Equipment
 17 - Other Hazardous Violation
 18 - Other Than Driver (or Ped)
 19 -
 20 -
 21 - Unsafe Starting or Backing
 22 - Other Improper Driving
 23 - Pedestrian or "Other" Under the Influence
 24 - Fell Asleep
 00 - Unknown
 - - Not Stated

Hit and Run

F - Felony
 M - Misdemeanor
 N - Not Hit & Run

Type of Collision

A - Head-On
 B - Sideswipe
 C - Rear-End
 D - Broadside
 E - Hit Object
 F - Overturned
 G - Vehicle/Pedestrian
 H - Other
 - - Not Stated

Motor Vehicle Involved With:

A - Non-Collision
 B - Pedestrian
 C - Other Motor Vehicle
 D - Motor Vehicle on Other Roadway
 E - Parked Motor Vehicle
 F - Train
 G - Bicycle
 H - Animal
 I - Fixed Object
 J - Other Object
 - - Not Stated

Road Surface

A - Dry
 B - Wet
 C - Snowy or Icy
 D - Slippery
 - - Not Stated

APPENDIX C

AVERAGE DAILY TRAFFIC (ADT)

COUNT DATA

Prepared by National Data & Surveying Services

VOLUME

Mustang Dr & Buckskin Dr

Day: Tuesday
Date: 7/9/2019

Highest 8 hours

City: Laguna Hills
Project #: CA19_1140_001

DAILY TOTALS						NB	SB	EB				WB	Total				
						0	366					175	214	755			
AM Period	NB	SB	EB	WB	TOTAL	PM Period	NB	SB	EB	WB	TOTAL						
00:00	0	0	0	0	0	12:00	0	7	3	7	17						
00:15	0	0	0	0	0	12:15	0	5	6	8	19						
00:30	0	0	0	0	0	12:30	0	4	1	3	8						
00:45	0	0	1	1	0	12:45	0	6	22	2	12	0	18	8	52		
01:00	0	0	0	0	0	13:00	0	6	1	2	9						
01:15	0	0	0	0	0	13:15	0	10	2	3	15						
01:30	0	2	0	1	3	13:30	0	6	2	7	15						
01:45	0	0	2	0	0	13:45	0	6	28	0	5	6	18	12	51		
02:00	0	0	0	0	0	14:00	0	4	3	2	9						
02:15	0	1	0	0	1	14:15	0	4	5	0	9						
02:30	0	0	0	0	0	14:30	0	7	3	6	16						
02:45	0	0	1	0	0	14:45	0	9	24	2	13	4	12	15	49		
03:00	0	1	0	0	1	15:00	0	7	4	1	12						
03:15	0	0	0	0	0	15:15	0	5	2	3	10						
03:30	0	0	0	0	0	15:30	0	6	3	5	14						
03:45	0	0	1	1	1	15:45	0	6	24	2	11	0	9	8	44		
04:00	0	0	0	0	0	16:00	0	6	5	2	13						
04:15	0	0	0	0	0	16:15	0	3	2	9	14						
04:30	0	1	0	1	2	16:30	0	10	3	2	15						
04:45	0	0	1	1	1	16:45	0	4	23	5	15	4	17	13	55		
05:00	0	1	1	1	3	17:00	0	7	1	4	12						
05:15	0	0	0	0	0	17:15	0	4	3	1	8						
05:30	0	0	0	1	1	17:30	0	7	5	6	18						
05:45	0	0	1	0	1	17:45	0	12	30	4	13	2	13	18	56		
06:00	0	1	0	0	1	18:00	0	8	1	1	10						
06:15	0	0	1	4	5	18:15	0	17	2	5	24						
06:30	0	1	1	2	4	18:30	0	11	4	3	18						
06:45	0	4	6	4	3	18:45	0	9	45	1	8	2	11	12	64		
07:00	0	3	3	2	8	19:00	0	8	7	77	2	98	17				
07:15	0	1	5	1	7	19:15	0	3	0	0	3						
07:30	0	3	3	3	9	19:30	0	7	2	5	14						
07:45	0	2	9	4	15	19:45	0	3	21	0	9	3	10	6	40		
08:00	0	4	7	4	15	20:00	0	6	3	1	10						
08:15	0	2	2	7	11	20:15	0	5	2	2	9						
08:30	0	2	3	6	11	20:30	0	4	2	0	6						
08:45	0	7	15	2	14	20:45	0	6	21	4	11	0	3	10	35		
09:00	0	8	4	2	14	21:00	0	3	0	5	8						
09:15	0	4	3	5	12	21:15	0	4	0	0	4						
09:30	0	5	6	4	15	21:30	0	5	0	1	6						
09:45	0	4	21	3	16	21:45	0	2	14	1	1	0	6	3	21		
10:00	0	4	1	5	10	22:00	0	4	0	2	6						
10:15	0	6	2	4	12	22:15	0	4	0	0	4						
10:30	0	3	1	4	8	22:30	0	2	0	0	2						
10:45	0	5	18	3	7	22:45	0	1	11	2	2	0	2	3	15		
11:00	0	7	1	3	11	23:00	0	2	0	1	3						
11:15	0	7	3	4	14	23:15	0	1	0	1	2						
11:30	0	6	3	4	13	23:30	0	0	0	0	0						
11:45	0	5	25	6	13	23:45	0	0	3	0	0	2	0	5			
TOTALS	100					75	93	268	TOTALS	266					100	121	487
SPLIT %	37.3%					28.0%	34.7%	35.5%	SPLIT %	54.6%					20.5%	24.8%	64.5

DAILY TOTALS					NB	SB	EBWB				Total
					0	366					175
AM Peak Hour	10:45	07:15	11:30	11:30	PM Peak Hour	17:45	16:00	16:15	18:1		
AM Pk Volume	25	19	22	63	PM Pk Volume	48	15	19	71		
Pk Hr Factor	0.893	0.679	0.688	0.829	Pk Hr Factor	0.706	0.750	0.528	0.74		
7 - 9 Volume	0	24	29	82	4 - 6 Volume	0	53	30	111		
7 - 9 Peak Hour	08:00	07:15	07:45	08:00	4 - 6 Peak Hour	17:00	16:00	16:15	17:0		
7 - 9 Pk Volume	0	15	19	48	4 - 6 Pk Volume	0	30	15	56		
Pk Hr Factor	0.000	0.536	0.679	0.750	Pk Hr Factor	0.000	0.625	0.750	0.77		

Attachment: Hartzog & Crabill, Inc. Multi-way Stop Sign Analysis - Buckskin Drive at Mustang Drive, August 19, 2019 (1964 : Side Street Stop

APPENDIX D

STOPPING SIGHT DISTANCE AS A FUNCTION OF SPEED

CALIFORNIA MUTCD

Table 6C-1. Recommended Advance Warning Sign ~~Minimum~~ Spacing

Road Type	Distance Between Signs**		
	A	B	C
Urban (low speed) - 25 mph or less***	100 feet	100 feet	100 feet
Urban - more than 25 mph to 40 mph***	250 feet	250 feet	250 feet
Urban (high speed) - more than 40 mph***	350 feet	350 feet	350 feet
Rural	500 feet	500 feet	500 feet
Expressway / Freeway	1,000 feet	1,500 feet	2,640 feet

* ~~Speed category to be determined by the highway agency.~~

** The column headings A, B, and C are the dimensions shown in Figures 6H-1 through 6H-46. The A dimension is the distance from the transition or point of restriction to the first sign. The B dimension is the distance between the first and second signs. The C dimension is the distance between the second and third signs. (The "first sign" is the sign in a three-sign series that is closest to the TTC zone. The "third sign" is the sign that is furthest upstream from the TTC zone.)

*** Posted speed limit, off-peak 85th-percentile speed prior to work starting, or other anticipated operating speed in mph.

Table 6C-2. Stopping Sight Distance as a Function of Speed on Level Roads.
(Used as suggested longitudinal buffer space length or location for flagger station)

Speed*	Distance
20 mph	115 feet
25 mph	155 feet
30 mph	200 feet
35 mph	250 feet
40 mph	305 feet
45 mph	360 feet
50 mph	425 feet
55 mph	495 feet
60 mph	570 feet
65 mph	645 feet
70 mph	730 feet
75 mph	820 feet

* Posted speed, off-peak 85th-percentile speed prior to work starting, or the anticipated operating speed in mph.

Table 6C-3. Taper Length Criteria for Temporary Traffic Control Zones

Type of Taper	Taper Length
Merging Taper	at least L
Shifting Taper	at least 0.5 L
Shoulder Taper	at least 0.33 L
One-Lane, Two-Way Traffic Taper	50 feet minimum, 100 feet maximum
Downstream Taper	50 feet minimum, 100 feet maximum

Note: Use Table 6C-4 to calculate L



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Assistant City Manager/Director of Public Services

ISSUE: Extension of a No Parking Zone on the Southerly Side of Gordon Road for Sight Distance Near Imperial Drive (Private Street) and Establishing a No Parking Zone on the Northerly Side of Gordon Road Near Moulton Parkway for Right Turn Access

RECOMMENDATION: That the City Council: (1) Find and determine that the proposed parking regulations are not subject to the California Environmental Quality Act pursuant to Sections 15301 (the activity applies to the operation of existing streets, and will not expand the use of those existing streets) and 15061(B)(3) (the activity has no potential for causing a significant effect on the environment) of the CEQA Guidelines, Cal. Code of Regs, Title 14, Chapter 3; and (2) adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, extending the No Parking Anytime zone on the southerly side of Gordon Road for 30 feet westerly of Imperial Drive (private street) and establishing a No Parking Anytime zone on the northerly side of Gordon Road for 120 feet easterly of Moulton Parkway."

SUMMARY:

Staff was contacted by a resident regarding sight distance limitations on Gordon Road near Imperial Drive, a private street. Staff initiated a review of this matter and determined the current site conditions necessitate restricting vehicle parking to improve driver sight distance along the southerly side of Gordon Road for an additional 30 feet, beyond that which currently exists, westerly of Imperial Drive. Additionally, a new traffic signal was recently installed on Moulton Parkway at Gordon Road requiring the establishment of a no parking zone on the northerly side of Gordon Road for 120 feet easterly of Moulton Parkway for a right turn lane. Both proposed no parking zones are

Gordon Road No Parking Zones

October 8, 2019

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shown on the attached vicinity map. The Traffic Commission, at its September 18, 2019, meeting, recommended the approval of the proposed No Parking Anytime zones at these locations.

BACKGROUND:

Gordon Road is a cul de sac street, accessed from Moulton Parkway between Alicia Parkway and La Paz Road, which provides access to the Moulton Niguel Water District facilities and two multi-family residential communities. Permit Parking is currently authorized on Gordon Road except at previously designated no parking zones, at the end of the cul de sac and at a fire hydrant.

Recently, staff was contacted by a resident regarding sight distance limitations on the southerly side of Gordon Road immediately adjacent to Imperial Drive, a private street. Staff reviewed the resident's concern, and upon performing a site evaluation, determined that restricting parking in this location will improve sight distance for exiting vehicles. It is recommended that the existing no parking zone in that area be extended for 30 feet westerly of Imperial Drive as identified on the attached vicinity map.

Additionally, a new traffic signal was recently installed on Moulton Parkway at Gordon Road requiring the establishment of a no parking zone on the northerly side of Gordon Road for 120 feet easterly of Moulton Parkway for a right turn lane as identified on the attached vicinity map.

The Traffic Commission, at the meeting of September 18, 2019, recommended to the City Council approval of the proposed No Parking Anytime zone for the enhancement of vehicular sight distance and the No Parking Anytime zone for a right turn lane at the new traffic signal at Moulton Parkway. The resident who contacted staff was notified of this matter being on the City Council agenda.

CEQA FINDINGS:

This project is exempt from CEQA under the Class 1 Existing Facilities categorical exemption set forth in CEQA Guidelines Section 15301. The Class 1 Existing Facilities exemption applies to the operation, repair, maintenance or minor alteration of existing public or private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The Class 1 Existing Facilities

Gordon Road No Parking Zones

October 8, 2019

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exemption includes the operation of existing highways, streets, sidewalks, gutters, and trails. (CEQA Guidelines Section 15301(c)) This exemption applies to the establishment and enforcement of parking regulations on existing streets. (See *Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4th 786, 793 (finding that the parking ordinance challenged in that lawsuit which regulated parking on existing streets was exempt from CEQA under the Class 1 Existing Facilities exemption because the ordinance qualified as “operation” of existing streets without any expansion of the use of those existing streets.) Here, as in the *Santa Monica* case, the City’s establishment of parking regulations applies to the operation of existing streets, and will not expand the use of those existing streets. The City’s parking regulations herein are therefore exempt from CEQA pursuant to the Class 1 Existing Facilities Exemption and the *Santa Monica Chamber of Commerce v. City of Santa Monica* opinion. In addition, for all of the foregoing reasons, it can be seen with certainty that there is no possibility that the City’s parking regulations may have a significant effect on the environment. The City’s proposed parking regulations therefore also fall within CEQA’s “common sense” exemption. (CEQA Guidelines Section 15061(b)(3).).

FISCAL IMPACT:

The relocation of one existing “No Parking” sign has an anticipated cost of \$150. Funds are available for this work in the 2019-20 Fiscal Year Public Works Maintenance Budget.

ATTACHMENTS:

- Resolution - No Parking Zone
- Vicinity Map

RESOLUTION NO. 2019-10-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, EXTENDING THE NO PARKING ANYTIME ZONE ON THE SOUTHERLY SIDE OF GORDON ROAD 30 FEET WESTERLY OF IMPERIAL DRIVE (PRIVATE STREET) AND ESTABLISHING A NO PARKING ANYTIME ZONE ON THE NORTHERLY SIDE OF GORDON ROAD FOR 120 FEET EASTERLY OF MOULTON PARKWAY

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

WHEREAS, Gordon Road is a two-lane cul de sac street accessed from Moulton Parkway between Alicia Parkway and La Paz Road; and

WHEREAS, a resident of the community requested the elimination an authorized permit parking zone on Gordon Road for the enhancement of vehicular sight distance; and

WHEREAS, it has been determined by City staff that restricting parking on the southerly side of Gordon Road for 30 feet westerly of Imperial Drive (Private Street) will improve sight distance for exiting vehicles; and

WHEREAS, a new traffic signal was recently installed on Moulton Parkway at the intersection with Gordon Road; and

WHEREAS, it has been determined by City staff that restricting parking on the northerly side of Gordon Road for 120 feet easterly of Moulton Parkway is necessary to accommodate a right turn lane at the new traffic signal; and

WHEREAS, the Traffic Commission, at its regularly scheduled meeting of September 18, 2019, recommended to the City Council the extension of the aforementioned "No Parking Anytime" zone on Gordon Road to address sight distance for vehicles and the establishment of the aforementioned "No Parking Anytime" zone on Gordon Road to provide a right turn lane at the new traffic signal at Moulton Parkway; and

WHEREAS, pursuant to Vehicle Code Section 22507, the parking of any type of vehicle on certain streets or highways may be prohibited or restricted by a general law city, during all or certain hours of a day, where signs or markings giving adequate notice of such regulations have been placed.

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

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

SECTION 2. There is hereby established "No Parking Anytime Zone" at the following locations on Gordon Road:

- a. On the southerly side of Gordon Road from 397 feet to 427 feet easterly of the centerline of Moulton Parkway.
- b. On the northerly side of Gordon Road from 304 feet to 424 feet westerly of the east end of the cul de sac on Gordon Road.

SECTION 3. The Assistant City Manager/Director of Public Services is hereby directed to and shall cause signs and/or markings to be placed giving notice of such prohibitions as necessary to implement the parking regulations established herein.

SECTION 4. The parking restrictions established in this resolution shall become effective upon posting of the required signage in accordance with Vehicle Code section 22507.

SECTION 5. This project is exempt from CEQA under the Class 1 Existing Facilities categorical exemption set forth in CEQA Guidelines Section 15301. The Class 1 Existing Facilities exemption applies to the operation, repair, maintenance or minor alteration of existing public or private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The Class 1 Existing Facilities exemption includes the operation of existing highways, streets, sidewalks, gutters, and trails. (CEQA Guidelines Section 15301(c).) This exemption applies to the establishment and enforcement of parking regulations on existing streets. (See Santa Monica Chamber of Commerce v. City of Santa Monica (2002) 101 Cal.App.4th 786, 793 (finding that the parking ordinance challenged in that lawsuit which regulated parking on existing streets was exempt from CEQA under the Class 1 Existing Facilities exemption because the ordinance qualified as "operation" of existing streets without any expansion of the use of those existing streets.) Here, as in the Santa Monica case, the City's establishment of parking regulations applies to the operation of existing streets, and will not expand the use of those existing streets. The City's parking regulations herein are therefore exempt from CEQA pursuant to the Class 1 Existing Facilities Exemption and the Santa Monica Chamber of Commerce v. City of Santa Monica opinion. In addition, for all of the foregoing reasons, it can be seen with certainty that there is no possibility that the City's parking regulations may have a significant effect on the environment. The City's proposed parking regulations therefore also fall within CEQA's "common sense" exemption. (CEQA Guidelines Section 15061(b)(3).)

PASSED, APPROVED, AND ADOPTED this 8th day of October 2019.

DON SEDGWICK, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

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

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2019-10-08-X adopted by the City Council of the City of Laguna Hills, California, at
a Regular Meeting thereof held on the 8th day of October 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

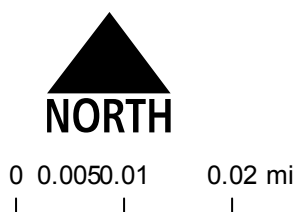
(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: Resolution - No Parking Zone [Revision 1] (1965 : Gordon Road No Parking Zones)



Attachment: Vicinity Map (1965 : Gordon Road No Parking Zones)



VICINITY MAP - GORDON ROAD





City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Establishment of City Council Policy No. 125 Regarding Procedures for the Delivery of the City Council Meeting Agenda and Agenda Packet

RECOMMENDATION: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, adopting City Council Policy No. 125 regarding procedures for the delivery of the City Council meeting agenda and agenda packet."

SUMMARY:

At its August 27, 2019, City Council meeting, the City Council directed staff to prepare a City Council policy to address the delivery of the City Council meeting agenda and agenda packet. The draft policy is included as an attachment to this report. Staff recommends the City Council adopt the attached Resolution adopting City Council Policy No. 125.

BACKGROUND:

There are several routine business practices and City Council protocols that the City Council has established over the years. These policies are outlined and compiled in the City Council Policy Manual. Pursuant to City Council Policy No. 101 (City Council Policy Manual), new policies are periodically prepared and submitted to the City Council for approval.

At the August 27, 2019, City Council meeting, the City Council directed staff to prepare a City Council policy to address the delivery of the City Council meeting agenda and

Establishment of City Council Policy No. 125

October 8, 2019

Page 2

agenda packet to Council Members and members of the public. As directed by the City Council, staff prepared the attached draft policy.

The draft policy reaffirms the City's practice of making the agenda and agenda packet available to City Council Members and members of the public by 5:00 p.m. on the Friday prior to the meeting. However, in instances where there is a minimum of 4 weeks or more preceding a City Council meeting, staff will endeavor to release the City Council meeting agenda and agenda packet for the upcoming meeting no later than 5:00 p.m. on the Wednesday prior to the meeting. While staff will endeavor to meet these guidelines, there may be instances where that is not possible. The draft policy provides for some flexibility to address circumstances and issues as they arise.

Staff recommends the City Council adopt the attached Resolution adopting City Council Policy No. 125.

ATTACHMENTS:

- Resolution - City Council Policy No. 125
- Exhibit A - City Council Policy No. 125

RESOLUTION NO. 2019-10-08-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADOPTING CITY COUNCIL POLICY NO. 125 REGARDING PROCEDURES FOR THE DELIVERY OF THE CITY COUNCIL MEETING AGENDA AND AGENDA PACKET

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

WHEREAS, the City Council may establish City Council Policies for providing procedures and guidelines to the City Manager for the administration, operation, and general health, safety, and welfare of the City; and

WHEREAS, the City Council wishes to adopt City Council Policy No. 125 to specify a procedure for the delivery of the City Council meeting agenda packet.

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

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

SECTION 2: City Council Policy No. 125, entitled "Delivery of Agenda" is hereby adopted in its entirety as set forth in Exhibit "A," which is attached hereto and is incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED this 8th day of October 2019.

DON SEDGWICK, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

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

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2019-10-08-X adopted by the City Council of the City of Laguna Hills, California, at
a Regular Meeting thereof held on the 8th day of October 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

CITY OF LAGUNA HILLS



CITY COUNCIL POLICY

SUBJECT: DELIVERY OF AGENDA
POLICY No. 125

Effective Date: October 8, 2019

Last Revision: n/a

PURPOSE:

To establish guidelines for the delivery of the City Council meeting agenda to Council Members and members of the public.

POLICY:

The purpose of this policy is to provide staff general direction and establish guidelines regarding the delivery of the City Council agenda and supplemental information to City Council Members and members of the public.

- 1) Pursuant to State law, agendas for regular City Council meetings must be posted a minimum of 72 hours in advance. For regularly scheduled City Council meetings, agendas must be posted no later than the Saturday preceding the meeting by 7:00 p.m.
- 2) As has been the City's regular practice, the City Council meeting agenda and agenda packet is made available to City Council Members and members of the public by 5:00 p.m. on the Friday prior to the meeting.
- 3) In instances where there is a minimum of 4 weeks or more period of time preceding a City Council meeting, staff will endeavor to release the City Council meeting agenda and agenda packet for the upcoming City Council meeting no later than 5:00 p.m. on the Wednesday prior to the meeting.
- 4) While staff will endeavor to release the City Council meeting agenda and agenda packet by the time guidelines detailed above, there may be instances where staff may be unable to meet the stated timeframes. If that is the case, the City Council meeting agenda and agenda packet will be released upon completion.
- 5) Upon the release of the City Council meeting agenda and agenda packet, should any changes to the material occur after the release of the agenda and agenda packet, City Council Members will be provided with a Hot Envelope detailing the changes to the agenda or agenda

**City Council Policy
No. 125
Delivery of Agenda Policy**

packet after publication. This information will concurrently be made available to members of the public.

- 6) This policy is not intended to limit the City Manager's flexibility to address different and/or unanticipated circumstances, as needed. The City Manager may exercise his sole discretion and judgment in deciding the timing of the production and release of the City Council meeting agenda and agenda packet, with the exception of timing as is required by law.

ATTACHMENTS:

- NONE



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019
TO: Chair and Agency Members
FROM: Jennifer Lee
Assistant City Clerk
ISSUE: Approval of Minutes for September 10, 2019, Regular Meeting

RECOMMENDATION: That the Planning Agency approve the Minutes for the September 10, 2019, Regular Meeting.

ATTACHMENTS:

- 190910 PA Minutes

RESULT:	APPROVED [4 TO 0]
MOVER:	Dore J. Gilbert, M.D., Council Member
SECONDER:	Dave Wheeler, Council Member
AYES:	Don Sedgwick, Mayor; Dore J. Gilbert, M.D., Council Member; Erica Pezold, Council Member; Dave Wheeler, Council Member
RECUSED:	Janine Heft, Mayor Pro Tempore

4. PLANNING AGENCY

Mayor Sedgwick recessed the City Council Meeting, and acting in capacity as Chair, called the Regular Meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:14 p.m.

4.1. ROLL CALL OF PLANNING AGENCY MEMBERS

Attendee Name	Title	Status	Arrived
Don Sedgwick	Chair	Present	
Janine Heft	Vice Chair	Present	
Dore J. Gilbert, M.D.	Agency Member	Present	
Erica Pezold	Agency Member	Present	
Dave Wheeler	Agency Member	Present	

4.2. PUBLIC COMMENTS

There were no Planning Agency Public Comments.

4.3. APPROVAL OF MINUTES

4.3.1 Approval of Minutes for August 27, 2019, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the August 27, 2019, Regular Meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dave Wheeler, Agency Member
SECONDER:	Janine Heft, Vice Chair
AYES:	Don Sedgwick, Chair; Janine Heft, Vice Chair; Dore J. Gilbert, M.D., Agency Member; Erica Pezold, Agency Member; Dave Wheeler, Agency Member

4.4. ADMINISTRATIVE REPORTS

There were no Planning Agency Administrative Reports.

4.5. PLANNING AGENCY PUBLIC HEARINGS

4.5.1 Site Development Permit/Master Sign Program No. 7-18-4264, a Request to Establish a Master Sign Program for the MemorialCare Saddleback Medical Center Located at 24411, 24421, and 24451 Health Center Drive

Assistant Planner Parker reviewed the information provided in the staff report and provided a PowerPoint presentation.

Chair Sedgwick opened the Public Hearing, and upon seeing no one rise, closed the Public Hearing.

The applicant, Art Navarro, Vice President of Sales at Signtech, agreed to the conditions of approval and responded to Planning Agency requests for additional information.

Recommendation: That the Planning Agency take the following actions: (1) Conduct a Public Hearing; (2) Find and Determine that the Project is Categorically Exempt from the California Environmental Quality Act Pursuant to Sections 15301(g) and 15311(a) of Title 14, Chapter 3 of the California Code of Regulations (Class 1 (g) Existing Facilities Exemption, and Class 11(a), Accessory Structures Exemption); and (3) Adopt Resolution No. PA2019-09-10-1: "A Resolution of the Planning Agency of the City of Laguna Hills, California, approving Site Development Permit/Master Sign Program No. 7-18-4264, a request to establish a Master Sign Program for the MemorialCare Saddleback Medical Center located at 24411, 24421, and 24451 Health Center Drive."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Vice Chair
SECONDER:	Dave Wheeler, Agency Member
AYES:	Don Sedgwick, Chair; Janine Heft, Vice Chair; Dore J. Gilbert, M.D., Agency Member; Erica Pezold, Agency Member; Dave Wheeler, Agency Member

PLANNING AGENCY ADJOURNMENT

Mayor Sedgwick reconvened the City Council Meeting at 7:27 p.m. All Council Members were present.

5. CITY COUNCIL PUBLIC HEARINGS

There were no City Council Public Hearings.

6. ADMINISTRATIVE REPORTS**6.1. City Manager**

The City Manager gave no Administrative Reports.

6.2. Deputy City Manager/City Clerk**6.2.1 A Request from the Southern California Gas Company to Adopt a Resolution Supporting Balanced Energy Solutions**

Deputy City Manager Au-Yeung reviewed the information provided in the staff report.

Karalee Darnell, Government Affairs Manager at Southern California Edison, voiced her concerns regarding adoption of the proposed Resolution.

Juan Gonzalez, Public Affairs Manager at Southern California Gas Company, spoke in favor of the proposed Resolution.

Recommendation: That the City Council consider a request from the Southern California Gas Company to adopt Resolution No. 2019-09-10-2: "A Resolution of the City Council of the City of Laguna Hills, California, supporting balanced energy solutions."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dave Wheeler, Council Member
SECONDER:	Janine Heft, Mayor Pro Tempore
AYES:	Don Sedgwick, Mayor; Janine Heft, Mayor Pro Tempore; Dore J. Gilbert, M.D., Council Member; Erica Pezold, Council Member; Dave Wheeler, Council Member



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019
TO: Mayor and Council Members
FROM: Donald J. White
City Manager
ISSUE: Permanent Memorial for the 3/5 Darkhorse Marine Battalion

RECOMMENDATION: That the City Council direct staff to initiate the recommended design process for a permanent memorial for the City's adopted 3/5 Darkhorse Marine Battalion at the Civic Center.

SUMMARY:

At the City Council meeting of July 9, 2019, the City Council directed staff to research and propose a process for the design, fabrication, and installation of a permanent memorial for the 3/5 Darkhorse Marine Battalion at the Civic Center. Staff has completed its research and is recommending a two phase approach. Phase 1 involves the development of a monument theme and narrative description. Phase 2 is the artist selection process and commissioning.

BACKGROUND:

On August 8, 2007, the City Council adopted Resolution No. 2007-08-28-2 formally adopting the 3rd Battalion, 5th Marines, 1st Division ("3/5") based out of Camp Pendleton. At that same meeting, the City Council established a steering committee and appointed three residents to serve on the steering committee. The steering committee was intended to take one year to get a community-based volunteer support committee up and running with assistance from City staff. At the end of one year, the steering committee was to dissolve and be replaced by a volunteer-based support committee that was relatively independent of the City. Unfortunately, this never happened. Due to lack of volunteer leadership, the support committee languished into

3/5 Memorial
October 8, 2019
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2010. On November 9, 2010, the City Council re-established the support committee as a non-Brown Act Committee made up of community volunteers. At that time, resident Mike Bland stepped forward to take leadership of the support committee now known as Team Darkhorse. Since then, Team Darkhorse has successfully and compassionately provided support to the 3/5. It should be noted that from October 2010 to April 2011, the 3/5 was on deployment to the Sangin District, Helmand Province, Afghanistan. During this deployment, which was part of "Operation Enduring Freedom," the 3/5 had 25 marines killed in action and over 200 were wounded. This was the greatest number of casualties suffered by a Marine battalion since the Vietnam War.

In November of 2011, the City Council changed the name of the City's Memorial Day Race event to the "Laguna Hills Memorial Day Half Marathon, 10K, and 5K, Honoring the United States Marine Corps Dark Horse Battalion." Annually, the City honors those soldiers of the 3/5 who lost their lives in Afghanistan on Memorial Day. Team Dark Horse and the 3/5 continue to play an integral role at both the Memorial Day event and the Fourth of July celebration.

At the City Council meeting of July 9, 2019, the City Council directed staff to research and propose a process for the design, fabrication, and installation of a permanent memorial for the 3/5 Darkhorse Marine Battalion at the Civic Center. There is an existing Civic Center public art program that was developed following the completion of the Civic Center renovation and construction project in June of 2004. The master plan was reviewed and approved by the City Council in January of 2006. At that time, the City Council selected an early California History theme; specifically, early California history in the Saddleback Valley. The master plan identified eleven pieces of art under this theme. By early 2010, nine of those art pieces were completed, including the three Council Chamber murals. The two remaining public art pieces are an unspecified work of art in the Council Chamber rotunda and a plaza sculpture in front of the Civic Center. The plaza sculpture location would be the most logical location for the permanent memorial to the 3/5. Attached to this report are photos and dimensions of the location. The site can accommodate a sculpture base dimension of up to 12' X 17', or 204 square feet. That said, a memorial to the 3/5 would be a departure from the original early California history theme, but would be consistent with the public art at the Civic Center in that they all depict a historical story. In addition, all of the public art located in the Civic Center is a community treasure and asset. Its purpose is to educate and inspire generations of Laguna Hills residents and visitors. A permanent memorial to the 3/5 fits that stated purpose. In staff's view, a departure from the original theme is not problematic.

3/5 Memorial
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Since the July 9th meeting, staff has met and consulted with the City's Public Art Consultant, Karen Robbins, Chair of Team Darkhorse, and Marine Major Joseph Patterson who was attached to the 3/5 during their historic deployment to Afghanistan and received valuable input. At this point in time, a permanent memorial to the 3/5 is simply an idea. Critical questions need to be asked and answered. What is the theme? What story, or stories, are we trying to tell? What memories do we want to invoke? What do we want people to take away from the memorial? Based on initial consultations and experience, staff has come to the conclusion that the process to be undertaken needs to be as inclusive as possible and highly sensitive to the perceptions, feelings and expectations of all who have a stake in this memorial. At the same time, the City needs to maintain control of the process to ensure success and the City Council needs to maintain final authority over the approved concept, artist selection, and final design approval. Toward this end, staff is recommending a process with two distinct phases.

Phase 1 – Development of Monument Theme and Narrative Description

Staff will develop and issue a Request for Proposal (RFP) to professionals in the art community whose background includes working with design projects that represent a selected historical story (memorial facilitator). The City Council may want to form an Ad Hoc committee whose purpose will be to work with staff in interviewing candidates and recommending the selected candidate to the full City Council. The primary objective of the memorial facilitator is to lead a series of visionary focus groups among the various stakeholders, distill the input and feedback, and ultimately present a written statement of the monument theme and a narrative description of the concept and vision that captures as inclusively as possible, the perceptions, feelings and expectations of stakeholder groups. Stakeholder groups could include the following:

- Goldstar Families
- Current Team Darkhorse members
- Former Team Darkhorse members
- Veterans of the 3/5
- Leaders of the 3/5 Marine Battalion
- City leaders and Interested Laguna Hills residents

Following these visionary focus group meetings, the memorial facilitator will draft for City review, the conclusions of each meeting and possible monument themes and

3/5 Memorial
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concepts that represent what was conveyed throughout the Phase 1 process. The findings and conclusions from these meetings will be presented to the City Council, including a recommended monument theme and narrative description of the concept and vision for the memorial. If approved by the City Council, then Phase 2 would be initiated.

Phase 2 – Artist Selection Process and Commissioning

Staff will prepare and issue a second RFP to initiate a nationwide artist selection process. In addition to the City Council approved monument theme, visionary concept and narrative description from Phase 1, the RFP would include:

- Scope of Work
- Specifications
- Proposed Timeline
- Submission Guidelines
- Second Phase Process
- Site/Size Parameters
- Budget
- Artist Application Form

The RFP would be distributed throughout the United States and open to all artists who wish to participate in the selection process. Artists will be requested to submit an application form (as noted above). This application form will also request each artist to submit visual aids of relevant work, current biography/resume, artist statement, and a visual concept and written explanation of the artist's proposed design for the permanent display. Typically three (3) months are provided for artists to submit proposals. Following the proposal deadline, those submittals received in response to the RFP will be reviewed by staff and the same Ad Hoc Committee of the City Council referred to in Phase 1. Up to five (5) finalist candidates will be asked to construct a maquette/scale model that will provide an accurate depiction of the work. Each candidate will be provided a stipend toward material costs at the time of maquette/scale model submission. The maquette/scale model will be accompanied by artist comments on final composition and proposed materials. Each model submittal

3/5 Memorial
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will be then presented to the full City Council for final comment, selection, and commissioning.

Next Steps

If the City Council approves staff's recommendation, the next steps will be for staff to prepare the RFP mentioned in Phase 1 and also prepare a detailed schedule for review by the City Council.

FISCAL IMPACT:

The current balance in the City's public art fund is \$72,692.22. Estimated cost to complete Phases 1 and 2 of the design process should fall well below this figure. When staff returns with the proposed RFP for Phase 1, we will identify a budget going forward.

ATTACHMENTS:

- Proposed 3/5 Memorial Site



Laguna Hills Civic Center
24035 El Toro Road

Plaza Sculpture Site Location
Photographs



Attachment: Proposed 3/5 Memorial Site (1966 : 3/5 Memorial)



Plaza Sculpture Site
12' x 17'

Laguna Hills Civic Center
24035 El Toro Road

Plaza Sculpture Site Location
Site Dimensions

Sculpture Base Dimension
12' x 17'

Sculpture Base Alternate
Dimension
12' x 8'8"



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019
TO: Mayor and Council Members
FROM: Donald J. White
City Manager
ISSUE: Five Lagunas Redevelopment Project Status Update (24155 Laguna Hills Mall, Laguna Hills, CA 92653)

RECOMMENDATION: That the City Council receive and file this status report.

SUMMARY:

A little over six years ago, Merlone-Geier Partners (MGP) purchased the Mall from Simon Properties. They immediately began work on a conceptual plan that Simon Properties had previously developed, but soon realized that the former Sears store was a major obstacle to completing the plan. They saw an opportunity to acquire the Sears leasehold interest and free up about 18 acres on the south end of the 68 acre site. This acquisition resulted in the creation of a completely new set of plans for the site. In early 2015, MGP began working with the City on an expedited development entitlement process for an extensive redevelopment of the site from an enclosed mall to a vibrant mixed use project. In March of 2016, the City Council approved the project, and that summer, MGP broke ground and was scheduled to complete construction by the end of 2018. That project included approximately 860,000 sq. of retail/entertainment and 988 luxury apartments. At some point in late 2017, it became apparent that MGP was having second thoughts about the City approved plan. In 2018, MGP acquired the two remaining major leasehold interests encumbering the site; Macy's and JC Penney.

On July 10, 2018 MGP issued a press release regarding the status of Five Lagunas essentially stating that, with the closures of Macy's and JC Penney, they were going back to the drawing boards.

This past spring, MGP began sharing their new plans with the City and various stakeholder groups. This past April they held a community forum to share their new plan with the wider public. It should be noted that they never formally submitted their new plan to the City for review and evaluation. That said, on its face, it appeared that the new plan did not fit within the existing zoning for the site.

At the May 14, 2019, City Council meeting, a large number of people attended to express concerns about the new plan MGP shared at their April community forum. A newly formed resident group, Five Lagunas Advisory Committee, or FLAG, introduced themselves to the City Council and expressed a strong interest in being involved with the project.

In late June, MGP informed the City Manager that in response to the feedback they had received, they were working on a new plan that would clearly fit within the existing zoning for the site.

On July 3, City staff and the leadership team of FLAG met to discuss their concerns, the entitlement process, zoning, CEQA, housing laws, etc. At that meeting it was agreed that FLAG should meet with MGP. On July 15, MGP met with FLAG along with the City Manager to discuss relevant issues and questions. At that meeting, it was tentatively agreed that FLAG would discuss with their broader group what role they would play in any additional community outreach and engagement related to the Five Lagunas project. FLAG will be at the meeting to inform the City Council about what they have accomplished over the past few months and what role they intend to play moving forward.

In recent weeks, staff has been working with FLAG to develop a list of Frequently Asked Questions (FAQs) that will be used by both FLAG and the City. Attached to this report is a draft list of FAQs that has been developed by staff and shared with FLAG. FLAG is currently working on a list of their own. Over the next several weeks, staff will collaborate with FLAG to develop a final list of questions with answers. It is staff's plan to present this complete set of FAQs with answers to the City Council at the November 12, meeting.

In addition to FLAG, MGP will have a representative at the meeting to provide a status report and answer any questions the City Council might have.

ATTACHMENTS:

- FAQs

Frequently Asked Questions

1. What is MGP currently entitled to build at the former Laguna Hills Mall site?
2. Why hasn't MGP moved forward with the March 2016 entitlements?
3. How has the City managed the loss of revenue from the Laguna Hills Mall?
4. What is the status of the plan MGP showed the public at their April 2019 Community Forum?
5. When is MGP going to submit their new plan to the City?
6. What does the City's General Plan and current zoning allow for on the former Laguna Hills Mall site?
7. In what ways is the State of California pressuring the City to accommodate additional housing units in the City?
8. What exactly is the Regional Housing Needs Assessment and how does it impact the City overall?
9. What exactly is the Housing Accountability Act (HAA) and how does it impact any new project submitted by MGP?
10. What are the consequences if the City ignores the State of California housing laws?
11. Can the City change the zoning to limit the amount of housing on the site?

12. What are the key steps involved in the entitlement process?
13. How will the environmental impacts of MGP's new proposal be evaluated?
14. Exactly how will a new project's impact on traffic be evaluated? Are there limits on what can be allowed?
15. How long will the entitlement process take?
16. I want to stay involved. How can I be notified about any town hall meetings or public hearings?



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: David Chantarangsu
Community Development Director

ISSUE: Staff Presentation Regarding the Regional Housing Needs Assessment (RHNA) for the Upcoming Sixth Cycle Housing Element (2021-2029)

RECOMMENDATION: That the City Council receive and file the report.

SUMMARY:

For the past nine months, staff has been monitoring and participating in a process known as the Regional Housing Needs Assessment (RHNA). As required by state law, the process is managed by the Southern California Association of Governments (SCAG) which includes the 191 cities and 6 counties in the Southern California region. The RHNA process identifies the amount of housing growth each jurisdiction in the SCAG region is required to plan for during each Housing Element Cycle. The jurisdictions in the SCAG region are approaching the beginning of the Sixth Cycle of the Housing Element which covers a planning period commencing October 2021 and ending October 2029.

The Housing Element is one of seven state-mandated elements each city and county is required by state law to include in its general plan. Every community is required by state law to maintain a general plan to address long term physical, social, environmental and economic goals typically over a 20-year horizon. The requirements for maintaining a general plan are contained in state law beginning with Section 65300 of the California Government Code. Requirements for maintaining a Housing Element can be found in Section 65580, et seq., of the Government Code.

Prior to the commencement of the Sixth Cycle Housing Element period for the SCAG region, the California Department of Housing and Community Development (HCD) issues

Regional Housing Needs Assessment (RHNA) for the Upcoming Sixth Cycle Housing Element (2021-2029)

October 8, 2019

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a determination letter identifying the region's housing need. On August 22, 2019, HCD determined the SCAG region must accommodate over 1.344 million housing units during the Sixth Cycle Housing Element planning period. SCAG has appealed the HCD determination, requesting instead that the state consider two lower RHNA options at approximately 823,000 or 920,000 dwelling units. Prior to HCD's issuance of its determination letter the SCAG Board, which is comprised of local elected officials, voted to approve a RHNA figure of 430,000 units.

In developing its RHNA methodology, SCAG estimated Laguna Hills would be allocated 1,000 to 2,100 units based on the housing need identified by HCD. However, at this time it is unclear if the range is still valid given SCAG's appeal to HCD. Furthermore, SCAG has recommended that a new methodology be used to distribute housing figures under the RHNA given comments received during the public workshops held regarding the development of the RHNA methodology. Staff anticipates receiving an updated RHNA estimate prior to the City Council's meeting. Attachment 1 provides a summary of the RHNA distribution for Orange County based on three RHNA methodology scenarios developed by SCAG prior to August 22.

To ensure jurisdictions in the region can obtain state approval of their updated Housing Elements by October 2021, SCAG anticipates finalizing the region's RHNA by February 2020. Local jurisdictions will then receive their individual draft RHNA allocations, and SCAG has allotted up to six months for local jurisdictions to complete their appeal processes to SCAG. The final RHNA allocation plan for each jurisdiction is expected to be issued by August 2020.

Built out communities like Laguna Hills typically struggle to plan for new housing through the RHNA process, especially during periods where housing demand is high. While recovering from the Great Recession when the expectations for housing demand were low, the City was only tasked with planning for two additional housing units. With an anticipated RHNA of at least 1,000 new housing units, staff anticipates looking to the former Laguna Hills Mall property and possibly other potentially underutilized non-residential areas to provide additional housing opportunities the City may need to obtain an approved ("certified") Housing Element from the state. It should be noted, that the City will be able to take credit for entitled residential units at both the Five Llagunas project and the second phase of the Oakbrook Village project. Collectively these add up to 1,188 above moderate income units. If the City fails to obtain certification of its Housing Element, state law provides for significant punitive measures

Regional Housing Needs Assessment (RHNA) for the Upcoming Sixth Cycle Housing Element (2021-2029)

October 8, 2019

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that could be imposed by a court. Having an inadequate Housing Element could also expose the City to significant litigation from housing advocacy groups and individuals.

BACKGROUND:

The City is required by state law to maintain a housing plan (commonly referred to as a Housing Element) as part of the long range planning efforts that are contained in the City's General Plan. In accordance with state law, the City's Housing Element must be updated and approved by the state by October 2021. The Housing Element is effective through October 2029.

In preparation for the upcoming Housing Element update, the state forecasts anticipated housing needs each region must accommodate. This process is known as the "Regional Housing Needs Assessment", or RHNA. On August 22, 2019, the state released a RHNA allocation of 1.344 million housing units for the Southern California Association of Governments' (SCAG) region covering six counties (Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura) and the 191 cities located therein, which far exceeds SCAG's initial proposal to set the RHNA determination at 430,000 units. Based on the higher RHNA figure from the state, the City was given projections indicating a projected housing need of between 1,061 and 2,127 units.

The City's projected housing need was further distributed into four income categories depicted below to anticipate the City's statutory need to plan for housing that accommodates all economic segments of the City's population. However, considering SCAG's appeal of HCD's RHNA allocation and the new methodology SCAG is considering, it is unclear if these estimates are valid.

	Income Category				
	Total	Very Low	Low	Moderate	Above Moderate
Option 1	2,127	726	532	553	315
Option 2	1,773	484	315	317	658
Option 3	1,061	289	188	190	394

ORANGE COUNTY AMI FOR 2019: \$97,900

The income categories identified above are defined relative to the County Median Income (also referred to as Area Median Income, or AMI) which are further defined below:

Regional Housing Needs Assessment (RHNA) for the Upcoming Sixth Cycle Housing Element (2021-2029)

October 8, 2019

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-
- Extremely low income: 0-30% of AMI.
 - Very low income: 30% to 50% of AMI.
 - Lower income: 50% to 80% of AMI; the term may also be used to mean 0% to 80% of AMI.
 - Moderate income: 80% to 120% of AMI. Above Moderate income:
 - More than 120% of AMI (housing at market rates, typically).

Since affordability is also dependent on the number of people in a household, staff has included Attachment 2 which depicts income limits for the various income categories based on household size for information. The income limits are updated annually and are current for 2019.

Proposed RHNA Methodology Overview

On September 23, 2019, SCAG held an informational meeting to provide a preview of the proposed RHNA methodology. After considering the hundreds of public comments received on the RHNA process during August and September, SCAG staff determined that a new “hybrid” methodology was appropriate to consider for the RHNA process.

The hybrid methodology includes data that has not yet been made available as of this writing. Staff expects to have access to the data and a new RHNA projection for the City prior to the City Council meeting of October 8. The new methodology considers the following factors:

- Actual Household Growth (Based on Local Input)
- Transit Accessibility (TBD)
- Job Accessibility (TBD)
- Unmet Need for Household Growth (TBD)
- Housing Vacancy & Replacement
- Social Equity Adjustments
- Fair Housing Considerations (TBD)

The additional factors were added to the RHNA methodology based on comments SCAG received during a six-month long public input process. The original three options

Regional Housing Needs Assessment (RHNA) for the Upcoming Sixth Cycle Housing Element (2021-2029)

October 8, 2019

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presented by SCAG were based on direction from the SCAG's ad hoc RHNA Subcommittee. Once the RHNA methodology is approved, SCAG will continue to move toward the goal of adopting a final RHNA allocation plan, which includes resolving its appeal of HCD's RHNA determination for the SCAG region. SCAG will then move to distribute the RHNA to all jurisdictions in the region.

Potential Strategies to Satisfy RHNA

Cities are not obligated to build housing as a result of the RHNA process. Instead cities are expected to remove barriers, such as zoning and development standards, that could diminish housing production. Staff notes that the lack of land zoned for residential uses has not historically been a deterrent to receiving a lowered RHNA allocation. As noted above, staff anticipates being able to rely on the former Laguna Hills Mall site to meet an undetermined portion of the City's potential RHNA obligation. However it's possible that other areas would need to be evaluated as well. Cities faced with integrating a large RHNA number into their land use planning framework typically look for underutilized non-residential properties over which residential zoning could be added to boost opportunities for housing. Staff would identify such potential areas for the City Council's consideration, along with any recommendations to modify development standards that would assure HCD that the City could meet its RHNA obligations.

Conclusion

Staff will continue to monitor the RHNA process and evaluate its potential impacts on the City. Once the City receives its final RHNA allocation in October 2020, staff will commence the Housing Element update process and will present a draft Housing Element to the City Council for consideration, likely in the second quarter of 2021. Once a draft Housing Element has been approved by the City Council, staff would forward it to HCD for review.

ATTACHMENTS:

- Attachment 1 - Summary of County RHNA Distribution
- Attachment 2 – Affordability Limits

Attachment 1 – Summary of County RHNA Distribution
August 22, 2019

City	Options		
	1	2	3
Aliso Viejo	1626	2885	341
Anaheim	19659	26854	21991
Brea	1537	2561	1336
Buena Park	5689	6192	4828
Costa Mesa	5910	9303	2895
Cypress	2141	2889	490
Dana Point	1471	1923	689
Fountain Valley	2778	3520	944
Fullerton	8184	9902	6252
Garden Grove	11780	14613	3993
Huntington Beach	8721	13982	2020
Irvine	16341	15806	20485
La Habra	2813	3569	1247
La Palma	723	888	27
Laguna Beach	900	1312	4
Laguna Hills	2127	1773	1061
Laguna Niguel	2146	3789	450
Laguna Woods	704	928	99
Lake Forest	3081	4849	1107
Los Alamitos	654	658	267
Mission Viejo	4050	5461	712
Newport Beach	3245	5292	2336
Orange	8634	10083	4912
Placentia	3072	3075	2682
Rancho Santa Margarita	2249	2750	411
San Clemente	2763	3760	1361
San Juan Capistrano	1607	2206	2032
Santa Ana	23362	31114	4941
Seal Beach	1203	1408	206
Stanton	3036	3432	1847
Tustin	3569	6202	4084
Uninc. OC	9831	7983	20030
Villa Park	271	333	53
Westminster	6243	7891	1782
Yorba Linda	2144	3859	464



Denotes lowest RHNA allocation of Options 1-3.

Attachment 2 – Affordability Limits

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Orange County Area Median Income: \$97,900	Extremely Low	24950	28500	32050	35600	38450	41300	44150	47000
	Very Low Income	41550	47500	53450	59350	64100	68850	73600	78350
	Low Income	66500	76000	85500	94950	102550	110150	117750	125350
	Median Income	68550	78300	88100	97900	105750	113550	121400	129250
	Moderate Income	82250	94000	105750	117500	126900	136300	145700	155100

California Department of Housing and Community Development
May 6, 2019



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: October 8, 2019

TO: Mayor and Council Members

FROM: Dan Meehan
Community Services Superintendent

ISSUE: City-Wide Holiday Decoration Plan and Agreement

RECOMMENDATION: That the City Council: (1) Waive competitive formal bidding requirements and procedures set forth in the City of Laguna Hills Municipal Code (LHMC) Section 3-08.090 with regard to approval of the proposed Holiday Lighting Agreement with The Christmas Kings (TCK), as it is hereby found and determined, pursuant to LHMC Section 3-08.110, that compliance is not in the City's best interest at this time; and (2) Approve the Agreement and authorize the City Manager to execute the Agreement for the Holiday Decoration Plan as revised by the City Council Ad Hoc Committee.

SUMMARY:

The adoption of the 2019-2021 Fiscal Years Operating Budget included the approval of a City-wide Holiday Decoration Plan. This program was reinstated in 2017 and decorations have been displayed from Thanksgiving through early January. Staff is recommending that the City Council waive competitive formal bidding requirements and procedures set forth in LHMC Section 3-08.090 with regard to the proposed Holiday Lighting Agreement with The Christmas Kings (TCK), as it is hereby found and determined, pursuant to LHMC Section 3-08.110, that compliance is not in the City's best interest at this time. Staff is also recommending that the City Council approve the agreement and authorize the City Manager to execute the attached agreement. This information was presented to the City Council at its September 10, 2019, meeting, and after review of the proposal, an Ad Hoc Committee comprised of Mayor Pro Tem Heft and Council Member Pezold was formed. The Ad Hoc Committee has worked with TCK and staff to revise the holiday

City-Wide Holiday Decoration Plan and Agreement

October 8, 2019

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decoration plan and has approved the proposal being presented to the City Council this evening.

BACKGROUND:

The adoption of the 2019-2021 Fiscal Years Operating Budget included the approval of a City-wide Holiday Decoration Plan for the time periods of Thanksgiving through early January. Previous years displays have included décor at the Community Center building, plaza, and the corner of Paseo de Valencia and Alicia Parkway, the five entry monuments in the City, and the median trees and pilasters on El Toro Road near the Civic Center.

In both 2017 and 2018, staff solicited informal proposals from three prospective holiday lighting vendors, per LHMC Section 3-08.080. The budget amount for the holiday lighting program was doubled in June of this year, from \$50,000 to \$100,000 annually. Although the increase in the budget to an amount greater than fifty thousand dollars requires formal procedures as spelled out in LHMC 3-08.090, staff is recommending that the City Council waive competitive formal bidding requirements and procedures set forth in LHMC Section 3-08.090 with regard to the proposed Holiday Lighting Agreement with The Christmas Kings (TCK), as it is hereby found and determined, pursuant to LHMC Section 3-08.110, that compliance is not in the City's best interest at this time based on the reasons stated in the September 10, 2019.

A holiday lighting proposal was presented to the City Council at its September 10, 2019, meeting, and after review, an Ad Hoc Committee comprised of Mayor Pro Tem Heft and Council Member Pezold was formed. The Ad Hoc Committee worked with TCK and staff to revise the holiday decoration plan to concentrate and enhance decorations in locations throughout the City that are equipped with electrical power. These locations include El Toro Rd./Regional Center Drive, the Community Center, and five (5) entry monuments (see Attachment 2 for map of City wide decoration coverage). The Ad Hoc Committee revisions to the September 10, 2019, proposal include the following:

- 1) Removal of solar/battery powered decoration locations from the plan:
 - a) North Laguna Hills @ Moulton Parkway median – one 7.5' 3D Red Ornament, One 4.5' 3D Silber Ornament in Center Median
 - b) Moulton/Laguna Hills Dr. corner – Two 7.5' Tall 3D Red Ornaments
 - c) PDV/La Paz corner – One 21' Tall Tree of Lights and a 5' Tall lit Deer

City-Wide Holiday Decoration Plan and Agreement

October 8, 2019

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- d) Oso/Moulton corner – Two 4.5' Tall 3D Ornaments (one red, one silver)
 - 2) Removal of 3' Tall lit 3D Gift Box from by each entry Monument Sign (total of 5)
 - 3) Light up 6 additional trees and 1 fence structure with garland behind south Moulton Entry Monument. Add starbursts or drip tubes to tree canopies.
 - 4) Light up 3 additional trees and 2 fence structure with garland behind Oso Pkwy Entry Monument. Add starbursts or drip tubes to tree canopies.
 - 5) Light up 2 additional trees behind Oso Pkwy Entry Monument. Add starbursts or drip tubes to tree canopies.
 - 6) Light up 1 additional tree behind Alicia Entry Monument. Add starbursts or drip tubes to tree canopies.
 - 7) Add lighting to ground cover behind entry monuments where possible.
 - 8) Additional lights in all trees at Community Center and lights around the Alicia side tree canopies at Community Center.

The complete holiday decoration plan, as revised by the Ad Hoc Committee, is presented in Attachment 1, under The Christmas King's invoice. At the meeting, staff will provide a power point presentation with images of the decorations.

Plans for the Civic Center in 2019 again include white exterior building lights, lights on the palm trees in the Civic Center plaza, along with a tree, wreaths and garland in the foyer. The decoration of the Civic Center is managed by Essex Property Management.

FISCAL IMPACT:

The budget for the holiday decoration plan is \$100,000 for FY 2019. The decoration plan as proposed to the City Council at its September 10, 2019, meeting was \$89,700. The cost of the holiday decoration plan, as revised by the City Council Ad Hoc Committee, is \$85,250.

ATTACHMENTS:

- Attachment 1 - TCK Agreement and Proposed Plan
- Attachment 2 - City Coverage of Decorations



TERMS AND AGREEMENT

1. TERMS OF AGREEMENT:

- a. The Invoice, dated September 30th, 2019 and numbered 19-4679 (the “Invoice”) along with these terms and agreements will represent the exclusive agreement between The Christmas Kings (“TCK”) and the Client (“client”) These terms and conditions shall hold as the written agreement between each party unless there is another duly recognized written agreement that supersedes these terms and conditions.
- b. Agreement Length shall be determined as the first date of the Estimate or Invoice regardless if the terms and agreement is or has been signed at a later date. The term of the contract shall begin on the first approved estimate date and remain in effect through the end of the applicable holiday season, which we will define as January 31st of the following year. If there is a multi year contract in place, the contract duration will be start of accepted proposal through January 31st of the following final contracting year. These terms shall be withheld unless there is a recognized written agreement that supersedes these contract dates.

2. PAYMENT TERMS:

- a. The client shall pay TCK the amount set forth in the Invoice with the following terms in mind.
- b. DEPOSIT - a deposit of 50% shall be due Net30 once the Invoice and terms are agreed upon. For multi year contracts the initial payment for the following years shall be paid on or before September 1st for each holiday season.
- c. BALANCE DUE - client shall pay the remaining balance to TCK including any additional billable Invoices that were incurred after initial contracting NET30 after the scope of work is completed in full. If the client has not paid on or before December 15th after the work has been completed the client authorizes TCK to auto debit the customers deposit method, bank card, credit card or ACH on file for the remaining balance. This amount will include a 4% service fee plus a 5% finance charge per month that the balance is remaining past due. This 5% finance charge will be added to the amount unpaid until the balance is paid in full.
- d. CLIENT REFUNDS AND CREDITS - if there is a particular scope of work that cannot be completed due to customer power, construction, change of mind, or any other reason not in the control of TCK, TCK and the client in a reasonable timely manner shall re-design, reallocate, or change the scope of work to another item valued at the same cost. Once a price point and Invoice is agreed upon by the client, the client may not diminish their budget for that holiday season or subsequent seasons on multi year contracts after the fact and request a refund or hold final payment in lieu of work not being completed that is out of TCK decision making power.

- e. CANCELLATION POLICY - in the event of a client cancellation more than 30 days prior to the scheduled installation date, the client shall forfeit a portion of there deposit amount which will be 25% of there total Invoiced amount as a cancelation fee. If the lighting agreement is canceled within 30 days of the installation date the client shall be responsible for 50% of the Invoice amount. If there is custom decor specific for the client's project that has been ordered or manufactured, the client will be responsible for 100% of the costs associated with such decor and 50 - 75% of the remaining applicable balance depending on cancelation date in respect to there install date.
- f. OWNERSHIP OF MATERIALS - TCK is the sole owner of all materials used on projects with the client unless otherwise specified on the Invoice denoting a purchase, lease to own, client provided material, or similar. All product is supplied on a rental basis and it is the duty and obligation of the client and their employees to use their best efforts to protect and ensure decorations and materials are not damaged, or stolen during the rental duration. Client will be held responsible for gross negligence of materials that are damaged while in there possession. Costs of damaged or stolen product while under the care of the client for gross negligence cases will be billed at the rate of 200% the replacement cost of each item. Client will not be charged for any passive negligence damage related to normal wear and tear or weather related damages.

3. SCOPE OF WORK

- a. Installation
 - i. TCK will provide installation using commercially reasonable efforts to complete installation as described in the scope of work detailed on the Invoice. TCK will have the client display installed by December 15th or on or before the scheduled date agreed upon by TCK and the client. All Non Daytime decor (trees, bushes, roof lines, etc.) will be installed prior to november 1st and powered off until commencement of lighting display designated by client. Determination of install methods will be at the sole discretion of TCK. TCK shall not be responsible for functionality issues due to electrical system faults or inadequate power availability at the property.
- b. Service
 - i. TCK will use commercially reasonable efforts to ensure all decorations are in working order during the season from the install date to December 30th or a contracted designated date agreed to and understood in the contract or invoice. All service calls during the season shall be relayed to TCK in writing so there is a trackable date and time stamp on the service call. Please send detailed information about the issue so we can promptly respond and remedy the situation. TCK has a 24-48 hour service call response time for issues depending on the severity of the issue and service area. Clients are required to change sprinkler run times in areas that lights have been requested. Sprinkler times must be set to start any time after the lights are off and to stop at least 4 hours prior to the lights activating. If there are issues with GFCI's popping and sprinkler times have not been changed clients may experience additional charges for service calls.

c. Removal

- i. All lighting displays will be removed beginning January 2nd and completed January 30th. Special requests can be arranged for early or late removals, these limited dates will be on a first come first serve basis. If your lights are installed past a preferred date please reach out to your sales person and request power to be turned off to your display until we can reach your property for removal.

4. CUSTOMER CHECKLIST AND RESPONSIBILITIES:

- a. Power - Clients must provide sufficient power to each location lights are requested to be installed. TCK does not always conduct a site survey and it is not included in our pricing. Clients are urged to have an electrical evaluation done with their preferred electrical contractor in order to ensure proper working power is available for TCK to tie into.
- b. Bubble covers - All outlets should be equipped with In-Use covers to prevent tripping from intruding water threats. TCK cannot ensure workability of displays that are connected to outlets without bubble covers, and the client may incur service call charges..
- c. GFCI - The most common service call is for a tripped GFCI. Customers are responsible for first attempting to reset the GFCI before requesting service. NOTE: power must be live to the outlet in order to reset the GFCI button. If an outlet is on a timer or photocell, that device must be activated to allow power to flow to the outlet before trying to reset. If a TCK technician is dispatched to repair an issue related to a popped GFCI in the circumstance that is related to a non protected GFCI outlet or a client related power issue, the client will be responsible for \$75 per hour including drive time for the repair.
- d. Sprinklers - Sprinkler systems must operate only when the lights are off. Please give 4 hours of dry time before the lights turn on for the evening. The TCK lights used on all projects are outdoor rated but they are not meant to be blasted by direct pressurized water. If sprinklers blast lights or outlets GFCI will trip and cause light failure.
- e. Tree trimming - TCK suggests all trees scheduled for lighting to be trimmed in the month of September if needed or prior as installs begin late September in most areas. Trimming trees has several benefits: helps with the speed of install, allows more lights to be visible from guests, allows install technicians to wrap higher and more primary branches offering a better final product for no additional costs to the client.
- f. Deployed Product During The Season - TCK is not responsible for our product or client owned product that has been stolen, cut, damaged, or destroyed while on the clients property. Clients must offer a safe and secure environment with adequate and sufficient security/supervision to prevent decorations from being stolen or damaged. If TCK determines that gross negligence has been demonstrated by the client TCK will alert the client and Invoice for losses at the rate of 200% the replacement cost

5. LEGAL

- a. Notices - all notices and correspondence shall be delivered electronically to TCK main customer support email or the appropriate salesperson.
- b. Modification or Waiver - No amendments, modifications or waivers of the lighting agreement shall be binding unless both parties agree in writing and both sign an amendment, addendum or new contract.
- c. Servability - The invalidity or unenforceability of any particular provision of the Lighting Agreement shall not affect the other provisions hereof, and this Lighting Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- d. Governing Law -The lighting agreement shall be constructed and enforced under and in accordance with the laws of the state of California.
- e. Dispute Resolution
 - (a) Mediation. In the event a dispute arises between the parties with respect to the Lighting Agreement, the parties agree to first submit such dispute to mediation in Orange County, California, which process shall commence by one party providing written notice to the other party requesting mediation. The mediator shall be selected by mutual agreement of the parties, provided, however, if the parties cannot agree on a mediator, TCK shall provide a list of five acceptable mediators to Customer and Customer shall choose the mediator from such list. The mediator shall conduct the mediation as he/she determines, with the agreement of the parties. The parties shall discuss their differences in good faith and attempt, with the mediator's assistance, to reach an amicable resolution of the dispute. The mediation shall be treated as a settlement discussion and shall therefore be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. The mediation proceedings shall not be recorded or transcribed. Each party shall bear its own costs in the mediation. The parties shall share equally the fees and expenses of the mediator. If the parties have not resolved a dispute within 90 days after written notice beginning mediation (or a longer period, if the parties agree to extend the mediation), the mediation shall terminate and the dispute shall be settled by arbitration. (b) Arbitration. If the parties are unable to resolve any dispute through mediation as set forth above, the parties will refer the issue (to the exclusion of a court of law) to final and binding arbitration in Orange County, California in accordance with the then existing Commercial rules ("Rules") of the American Arbitration Association ("AAA"), and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof; provided, however, that the law applicable to any controversy shall be the law of the State of California, regardless of principles of conflicts of laws. In any arbitration pursuant to this Agreement, (i) discovery shall be allowed and governed by the Rules, and (ii) the award or decision shall be rendered by a single arbitrator appointed by mutual agreement of the parties. In the event of failure of the parties to agree within thirty (30) days after the commencement of the arbitration proceeding upon the appointment of the arbitrator, the arbitrator shall be

appointed by the AAA in accordance with the Rules. Upon the completion of the selection of the arbitrator, an award or decision shall be rendered within no more than thirty (30) days. Notwithstanding the foregoing, the request by either party for preliminary or permanent injunctive relief, whether prohibitive or mandatory, shall not be subject to arbitration and may be adjudicated only by the courts of the State of California located in Orange County or the Federal District Court for the District of California. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING HEREUNDER. All aspects of the arbitration shall be treated as confidential. The parties and the arbitrator may disclose the existence, content or results of the arbitration only in accordance with the Rules or applicable professional standards.

6. INSURANCE

6.1 Compliance with Insurance Requirements. TCK shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to City, all insurance required under this section. TCK shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to City that it has secured all insurance required under this section. If TCK's existing insurance policies do not meet the insurance requirements set forth herein, TCK agrees to amend, supplement or endorse the policies to do so.

6.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, TCK shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. **Commercial General Liability Insurance.** TCK shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. **Automobile Liability Insurance.** TCK shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.

C. **Workers' Compensation Insurance.** TCK shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. TCK agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the City, its

officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies. TCK shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

6.3 Acceptability of Insurers. Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Lines Insurers (LASLI), by the latest edition of A.M. Best's Key Rating Guide, except that the City will accept workers' compensation insurance from the State Compensation Fund. In the event the City determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the TCK agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City. TCK shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

6.4 Insurance Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. Required insurance policies shall contain the following provisions, or TCK shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to provide the following:

1. Additional Insured: The City, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement; and

2. Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of TCK, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

3. Notice: The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the City. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of TCK's failure to pay the insurance premium, the notice provided to City shall be by ten (10) days prior written notice.

B. For all policies of Commercial General Liability Insurance, TCK shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.

5.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the City in advance and shall protect the City, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

6.6 Primary and Non-Contributing Insurance. All policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the City, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

6.7 Waiver of Subrogation. All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the City, its officials, officers, employees, agents and volunteers, or shall specifically allow TCK or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. TCK hereby agrees to waive its own right of recovery against the City, its officials, officers, employees, agents and volunteers, and TCK hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

6.8 Evidence of Coverage. Concurrently with the execution of the Agreement, TCK shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, TCK shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. TCK shall promptly furnish, at City's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents City requires to verify coverage.

6.9 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which TCK may be held responsible for payments of damages to persons or property.

6.10 Enforcement of Agreement (Non-Estoppel). TCK acknowledges and agrees that actual or alleged failure on the part of the City to inform TCK of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the City nor does it waive any rights hereunder.

6.11 Insurance for Subconsultants. TCK shall either: (1) include all subconsultants or subcontractors engaged in any Work or Services for TCK relating to this Agreement as additional named insureds under the TCK's insurance policies; or (2) TCK shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the City, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability Insurance provided by TCK's Subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name the City, its officials, officers, employees, agents and volunteers, as additional insureds. TCK shall not allow any subconsultants or subcontractor to commence any Work or Services relating to

this Agreement unless and until it has provided evidence satisfactory to City that the subconsultant or subcontractor has secured all insurance required under this section.

6.12 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of TCK pursuant to this Agreement:

A. TCK shall provide immediate written notice to City if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by TCK and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the City and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Project. It is TCK's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. TCK agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by TCK, provide the same minimum insurance coverage required of TCK. TCK agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. TCK agrees that upon request, all agreements with subcontractors and others engaged in the Project will be submitted to the City for review.

F. TCK agrees to provide immediate written notice to City of any claim, demand or loss against TCK arising out of the Work or Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

7. INDEMNIFICATION

To the fullest extent permitted by law, TCK shall defend (at TCK's sole cost and expense with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City, its officials, officers, employees, agents and volunteers (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (TCK's employees included), for damage to property, including property owned by City, or from any violation of

any federal, state, or local law or ordinance, which Claims arise out of, pertain to, or are related to TCK's performance under this Agreement. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit TCK's indemnification obligation or other liability hereunder.

7. ENTIRE LIGHTING AGREEMENT

This Lighting Agreement constitutes the entire Lighting Agreement between the Parties and supersedes all prior negotiations, arrangements, representations, or understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Lighting Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

No Duress. This Agreement has been entered into without force or duress, signing at free will of the client and each party involved. The client has had free will with clear decision to enter into this Agreement is a fully informed decision and such persons/companies/or clients are aware of all legal verbiage and has complete understanding of all listed contractual terms and agreements.

I THE UNDERSIGNED AGREE IN FULL WITH ALL THE TERMS AND CONDITIONS LAID OUT IN THE ATTACHED DOCUMENTS AND INVOICES. I THE UNDERSIGNED AM QUALIFIED ON BEHALF OF SELF, CLIENT, OR THE PROPERTY/COMPANY TO ENTER INTO SUCH CONTRACT.

COMPANY/CITY NAME: _____

CONTACT NAME: _____

CONTACT TITLE: _____

SIGNING DATE: ____ / ____ / ____

SIGNATURE: _____

THE CHRISTMAS KINGS

MATHEW KRONQUIST

PRESIDENT

DATE: ____ / ____ / ____

SIGNATURE: _____

ATTACHMENT 1



OVERVIEW

Please initial each of the following key points from the contract

1. _____ 50% Deposit due at the time of job approval, 50% final payment due Net30 after the completion of installation, or on/before December 15th - Late fees will be incurred for payments past December 15th
2. _____ All product provided as seasonal rental, unless otherwise stated in scope of work
3. _____ Customer must provide pre-checked and working Power Outlet (with bubble cover) at each lighting location. TCK can not run power across sidewalks or more that 100' from Outlet
4. _____ Price includes installation, service calls with a 24-48 hour response time, and removal of all product in January. All takedowns will be done between January 2nd - 31th (Weather Permitting)
5. _____ Customer must have landscape company change any nearby sprinklers to run only during daytime hours, must be done before "lights on" date
6. _____ Any Vendor Registration Fees will be paid by the Property Management Company or the fee will be added onto the final invoice payment if they are not disclosed at the time of contracting.
7. _____ All non daytime decor will be installed in October (tree lighting, roof lines, fence lighting, flood lights, etc.). All Greenery, Bows, Decor, and final power connections will be done prior to the lights on date. The install date will be determined by TCK within an acceptable date range from the client, property management company, owner, or other.



Invoice

The Christmas Kings

31500 Grape St. Suite 3233, Lake Elsinore, CA, 92532
 Inland Empire: 951-402-2000 • Orange County: 714-907-0003 • Fax: 951-905-1401
<https://www.thechristmaskings.com> • support@thechristmaskings.com

Invoice No. **19-4679**
 September 30th 2019

CUSTOMER INFORMATION

Property Name	City of Laguna Hills	
Property Type		
Address	25555 Alicia Parkway	
City, State, Zip	Laguna Hills, CA, 92653	
Contact 1	Name: Dan Meehan Phones: Work: 949-707-2688	Title: Community Services Superintendent Email: dmeehan@lagunahillscs.gov

INVOICE TOTAL

\$85,250.00

City of Laguna Hills Community Center

Quantity	Description
1	White/Red C9 LED around full perimeter of Community Center Building
1	Installation one 8' tall pre-lit Wreath with 48" Red Bow above main entry doors to Community Center
2	Installation of two 7.5' tall Pandora Snowflakes with animated LED Drip lights
1	15' Lit Decorated Christmas Tree placed in Main Lobby with Gold, Silver, and Red Decor Package. Includes Garland and 48" Wreath at top of Stairwell
4	Lit Decorated Garland around top of four Monument Pillars at the corner
2	Installation of (2) 7.5' Tall by 6.5' Wide Red/Gold 3D Ornaments fully lit with twinkle LED lights placed on top of big Pillars at the corner
2	Installation of (2) 4.5' Tall by 4' Wide Red/Gold 3D Ornaments fully lit with twinkle LED lights placed on top of smaller Pillars at the corner
1	Installation of 16' Tall by 16' Long Walk-thru Ornament with Twinkling LED Lights in Courtyard
2	Installation of two 3' Tall 3D Gift Boxes flanking Ornament in courtyard
1	Branch wrap 30 Trees and bushes in front of building, Trees in Grass area, C9s along top of wall, and Trees on other side of wall along Alicia Pkwy - Including additional lights in all trees and Lights around the Alicia side tree canopies

Attachment: Attachment 1 - TCK Agreement and Proposed Plan (1973 : City-Wide Holiday Decoration Plan and Agreement)

El Toro Median Tree and Monuments (2 Identical Medians)

Quantity	Description
12	Spiral wrap 12 total Palm Trees with clear LED mini lights using 4"-6" spacing up approx. 20' high
12	Uplights on each Palm Tree to light up Palm Fronds (2 uplights per Palm to light up front and back, price is per palm)
8	Lit Decorated Garland around top of each Monument Pillar
4	4.5' Tall 3D Red Ornaments on top of 1st and 4th Monument Pillar

El Toro & Regional Center Intersection (Both Sides)

Quantity	Description
8	Spiral wrap 4 Palm Trees (2 on each corner) with clear LED mini lights using 4"-6" spacing up approx. 18' high
8	Uplights on each Palm Tree to light up Palm Fronds (2 uplights per Palm to light up front and back, price is per palm)
8	Lit Decorated Garland around the top of the 8 Monument Pillars (2 on each corner)
3	Lit Decorated Garland across top of 3 Monument walls (1 corner doesn't have a monument wall)

5 Laguna Hills Monuments

Quantity	Description
5	Lit Decorated Garland across top of each Monument Sign
5	Light up bushes in front of Monument Signs with LED mini lights
5	Branch wrap trunk and major limbs of tree behind Monument Sign with clear LED mini lights to tips with Starburst in canopy
1	Light up 6 additional Trees and 1 Fence Structure with Garland behind South Moulton Entry Monument -Power here - Light up each tree as high as safely possible and add Starbursts or Drip Tubes to Canopies - including bushes in front
1	Light up 3 additional Trees and 2 Fence Structures with Garland behind Oso Pkwy Entry Monument -Power here - Light up each tree as high as safely possible and add Starbursts or Drip Tubes to Canopies - Light up Bushes behind Monument Sign
1	Light up 2 additional Trees behind La Paz Entry Monument -Power here - Light up each tree as high as safely possible and add Starbursts or Drip Tubes to Canopies - Light up Bushes behind Monument Sign
1	Light up 1 additional Tree behind Alicia Pkwy Entry Monument -Power here - Light up each tree as high as safely possible and add Starbursts or Drip Tubes to Canopies - add lights to bushes behind Monument Sign

Terms:

Quantity	Description
	- All product is provided as a rental for the season
	- 50% Deposit due at time of job approval, 50% final payment due after completion of installation (Net30)
	- Customer must provide pre-checked and working Power Outlet with water tight cover at each lighting location

- Price includes installation, any service calls with a 24-48 hour response time, and removal of all product by January 20th (Weather Permitting)

- Customer must have landscape company change any nearby sprinklers to run only during daytime hours, must be done before "lights on" date

- All non daytime decor will be installed in October, all Greenery, Bows, Decor, and final power connections will be done on "lights on" date

TERMS

The Christmas Kings carries general liability insurance & work comp @ \$2,000,000 and \$1,000,000 limits, Increases are available at clients expense - Our price includes installation, service, & removal, unless otherwise specified. - All materials are supplied to project as a rental from The Christmas Kings, unless provided by the client or otherwise specified. - The client is responsible for providing adequate power at all lighted locations. - Sprinklers MUST be turned to operate during daylight hours to prevent shorting out the display. - The Christmas Kings provides service within 24 to 48 hours of reported outage. Please use our online service call reporting link to report an outage, or send an email to service@thechristmaskings.com. - Additional fees may occur if it is determined that vandalism, theft cause undo loss or damage.

ATTACHMENT 2 City Coverage of Holiday Decorations

6.3.1.b



Attachment: Attachment 2 - City Coverage of Decorations (1973 : City-Wide Holiday Decoration Plan and Agreement)