



Real Estate Assets Department
SDC003

~~City of SD DBA SCP Horton owner LLC~~

CITY-939-AQQ

SCP Park
Services LLC

Document Type

LEGAL DOCUMENTS



Sub - Category

AGREEMENTS



LICENSE AGREEMENT

This license ("License") dated August 10, 2023, by and between SCP Horton Owner 1, LLC, SCP Horton Owner 2, LLC, SCP Horton Owner 3, LLC and SCP Horton Owner 4, LLC, all Delaware limited liability companies (collectively, "Owner" or "Licensor") and The City of San Diego, a California Municipal corporation ("Licensee").

1. GRANT OF LICENSE.

Licensor hereby allows Licensee to use a portion of the real property located at 400 Horton, Suite 450, San Diego, California, 92101, consisting of approximately 2,497 square feet, and as more particularly depicted on Exhibit A attached hereto (the "Premises"), on the terms set forth herein. As consideration for use of the Premises, Licensee shall pay to Licensor, in advance and without offset, a license fee in the amount of \$1.00 per annum ("License Fee"). Payment of the License Fee is the only consideration Licensee is obligated to provide to Licensor for this License.

2. TERM.

The term of this License shall commence on or about August 1, 2023 and shall end on July 31, 2024, and shall continue thereafter on an annual basis; provided however, either parties may terminate this License earlier upon at least thirty (30) days written notice for any reason.

3. DEPOSIT.

Upon execution hereof, Licensee shall deposit with Licensor the sum of \$0.00 as security for the full performance of all the provisions of this License. Licensor may, without waiver of default or other remedies, use all or part of the Deposit to clean the Premises, to repair damage to the Premises, or to compensate Licensor for a default by Licensee hereunder. The Deposit may be kept with Licensor's other funds and shall not bear interest.

4. USE OF PREMISES.

4.1 The Premises shall be used only for the purpose of City of San Diego Police Department satellite office and bike patrol unit and for no other purpose. Licensee shall comply with all legal requirements affecting the Premises and its use. Licensee shall not (a) do or permit anything to be done, nor bring or keep anything in or around the Premises, that will increase the risk of fire or other loss (including by way of example, bring flammables or explosives into the Premises or bringing fuel-powered machinery into the Premises), (b) do or permit anything to be done which may be a nuisance to tenants, (c) store anything outside of the Premises, (d) place any signs on or around the Premises, nor (e) commit or suffer any waste upon or about the Premises. For the avoidance of doubt, any equipment

necessary or useful for Licensee to conduct Police- and law enforcement-related activities is not prohibited by this Section.

4.2 Licensee shall not, and shall not direct, suffer or permit any of its agents, contractors, employees, licensees or invitees to at any time handle, use, manufacture, store or dispose of in or about the Premises or the Premises any (collectively "Hazardous Materials") flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any federal, state and local laws, regulations and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or wastes (collectively "Environmental Laws"). Licensee shall protect, defend, indemnify and hold each and all of Licensors, Licensors investment manager, and the trustees, board of directors, officers, general partners, beneficiaries, stockholders, employees and agents of each of them harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred by reason of any actual or asserted failure of Lessee to fully comply with all applicable Environmental Laws, or the presence, handling, use or disposition in or from the Premises of any Hazardous Materials, or by reason of any actual or asserted failure of Licensee to keep, observe, or perform any provision of this paragraph. For the avoidance of doubt, any equipment necessary or useful for Licensee to conduct Police- and law enforcement-related activities is not prohibited by this Section.

4.3 Licensee is responsible for all of its employees and shall ensure that they do not do anything which Licensee is not allowed to do. Licensee shall faithfully observe and comply with all the rules and regulations which Licensors may promulgate from time to time regarding the use of the Premises including without limitation, such rules and regulations in Exhibit B attached hereto.

4.4 Licensee shall not be obligated at any time during the term of this License to maintain Law Enforcement Personnel on the Premises. Licensee shall not be obligated to provide any type of security services to Licensors, the Premises, the building in which the Premises is located, or any improvements on the property the Premises is located.

5. UTILITIES.

The license fee set forth in Article 1 shall include the cost of the following utilities: electricity, water, and sewer. Licensee shall be responsible for the cost of all other utility service for the Premises.

6. ACCEPTANCE OF PREMISES.

Licensee hereby acknowledges that it has examined the Premises and accepts the same on an "AS IS" and "WHERE IS" Basis, without representation or warranty (express or implied) and as being entirely satisfactory. Neither Licensor nor Licensee has any obligation to alter the Premises.

7. ALTERATIONS, REPAIRS, MAINTENANCE AND SIGNS.

7.1. Licensee agrees not to make or permit any alterations to the Premises without the prior written approval of Licensor, and shall maintain the Premises in a neat, clean, and orderly condition. Licensee shall repair any damage it causes, or in lieu of requiring repairs, Licensor shall have the right to perform such repairs itself, in which case all repair costs shall be payable by Licensee upon request. Upon termination of this License, Licensee shall deliver the Premises to Licensor in the same condition as it existed upon commencement of this License and Licensee shall remove any equipment and other personal property of Licensee.

7.2. Licensor shall retain absolute control over the exterior appearance of the Premises. Licensee shall not install, or permit to be installed, any drapes, shutters, signs, lettering, advertising, or any items that will in any way alter the exterior appearance of the Premises.

8. INDEMNITY AND RELEASE; INSURANCE.

8.1 Licensee shall defend, indemnify and hold harmless Licensor and its property manager and other agents (the "Protected Parties") from and against any and all claims (and all related liabilities, costs, and attorneys' fees) arising from (a) Licensee's use of the Premises or anything done, permitted, suffered or omitted by Licensee or any of its agents or visitors in or about the Premises, and/or (b) any breach or default by Licensee hereunder. For the purposes of clarification, Licensor and Licensee agree that Licensee's duties to Licensor under this Section 8.1 shall not include or be triggered by any claims against Licensor that assert Licensee did not adequately maintain Law Enforcement Personnel or provide any type of security services to Licensor, the Premises, the building in which the Premises is located, or any improvements on the property the Premises is located.

8.2. During the term hereof, Licensee shall maintain in full force and effect Commercial General Liability written on an occurrence basis with a minimum limit of \$1,000,000 per occurrence and \$2,000,000 general aggregate, naming Licensor and the other Protected Parties as additional insureds. Such insurance shall insure Licensee's indemnity obligations herein. In addition, Licensee shall insure all of its personal property at 100% of its full replacement value. All insurance shall contain a complete waiver of subrogation in favor of Licensor and the other Protected Parties. A certificate of all such insurance (including a prohibition against change or cancellation of coverage without 30 days prior

notice to Licensor) shall be delivered to Licensor prior to Licensee entering the Premises. Licensee hereby waives any right to the proceeds and other benefits of any insurance Licensor may maintain on the Premises or any persons or property thereon. Notwithstanding anything to the contrary in this Agreement, Licensee may fulfill the insurance obligations of this Section 8.2 via self-insurance.

9. ENTRY BY LICENSOR.

Licensor and its agents shall have the right to enter the Premises for any business purpose, including to inspect the same or to make repairs or alterations to the Premises or the Premises. Licensee shall not alter any lock or install a new or additional lock on any door of the Premises without the prior written consent of the Licensor, which said consent shall not be unreasonably withheld.

10. HOLDING OVER.

It is agreed that the date of termination of this License and the right of Licensor to recover immediate possession of the Premises thereupon is an important and material matter affecting the parties hereto. In the event of any continued occupancy or holding over of the Premises without the express written consent of Licensor beyond the expiration or earlier termination of this License, whether in whole or in part, or by leaving personal property on the Premises or otherwise, Licensee shall pay a penalty of 300% of the License Fee then in effect ("Holdover Fee"), plus any other charges or payments contemplated in this License. For the avoidance of doubt, the payment by Licensee of the Holdover Fee shall in no way be deemed as a continuance of Licensee's right to occupy the Premises and Licensor shall retain all rights at law or in equity against the Licensee.

11. ASSIGNMENT AND SUBLICENSE.

Licensee shall not (a) assign this License or any interest in this License, (b) permit the use of the Premises by any person or persons other than Licensee, nor (c) sublicense all or any part of the Premises.

12. DEFAULT BY LICENSEE.

Time is of the essence hereof. Licensee shall be in default if Licensee fails to perform any obligation hereunder as and when due. In the event of such a default, Licensor shall have all rights and remedies allowed by law. In addition, Licensor shall have the right to terminate this License and/or Licensee's right to use the Premises. Upon any such termination, Licensee shall immediately yield up possession of the Premises and Licensor may take any and all action, including changing the locks on the Premises and removing all of Licensee's possessions from the Premises, to enforce Licensee's obligations.

13. **PARKING.**

Licensor hereby grants to Licensee a license to use unreserved parking stalls in the parking facility located within the property ("Parking Facility") for the purpose of vehicular parking and no other use. In consideration for such a license, Licensee shall pay to Licensor a monthly fee equal to Zero Dollars (\$0.00) per parking stall ("Parking Fee"). Such Parking Fee shall be payable concurrently with the License Fee and shall be the only fee, charge, consideration or payment for the use of the Parking Facility by Licensee and its invitees. Licensee shall comply with and shall cause its invitees to comply with the rules and regulations for the Parking Facility as more particularly described in Exhibit C attached hereto ("Parking Facility Rules"). Licensor may at any time and from time-to-time revoke the license for the Parking Facility, restrict the number of parking stalls granted to Licensee, revise the Parking Fee or revise the Parking Facility Rules by providing Licensee with at least fifteen (15) days prior written notice of the same; provided, however in the event that Licensor revokes the parking license entirely or restricts the number of parking stall and Licensee has already paid the Parking Fee for such parking stalls, Licensor shall refund to Licensee such portions of the Parking Fee for such month, as applicable. Short-term visitor parking for patrons of Licensee in designated visitor parking areas shall be available at no charge.

14. **ATTORNEY'S FEES.**

In the event of litigation to enforce or to interpret this License, the prevailing party shall be entitled to recover, in addition to all other sums and relief, its reasonable costs and attorney's fees incurred at and in preparation for arbitration, trial, appeal and/or review, including costs and attorney's fees in federal bankruptcy proceedings.

15. **NOTICES.**

All notices to Licensee shall be in writing and shall be sufficiently given if delivered to the Premises or if sent by certified mail to the Premises or to the address (if any) shown at the end of this License.

16. **INTERPRETATION.**

16.1 This License shall be governed by the law of the state where the Premises is located. This License contains the entire agreement of the parties. This License can be amended, or any right or provision waived, only by written document signed by both parties.

16.2 All obligations, liabilities, indemnities, waivers and releases of Licensee hereunder, as well as the attorneys' fees provision hereof, shall survive the expiration or termination of this License and/or of Licensee's right to use the Premises.

17. **LIMITATION AND LIABILITY.**

Redress for any claim against Licensor under this License shall be limited to and enforceable only against and to the extent of Licensor's interest in the Premises. The obligations of Licensor under this License are not intended to and shall not be personally binding on, nor shall any resort be had to the private properties of, any of its trustees or board of directors and officers, as the case may be, its investment manager, the general partners thereof, or any beneficiaries, stockholders, employees, or agents of Licensor or the investment manager.

18. **NO AMENDMENT.**

This License may not be modified except by a written document executed by both Licensor and Licensee.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLACK —
SIGNATURES FOLLOW ON NEXT PAGE]**

IN WITNESS WHEREOF, Licensor and Licensee have executed this License as of the date first written above. Individuals signing on behalf of a principal warrant that they have the authority to bind their principal. This License is subject to acceptance by Licensor.

LICENSOR:

SCP HORTON OWNER 1, LLC
SCP HORTON OWNER 2, LLC
SCP HORTON OWNER 3, LLC
SCP HORTON OWNER 4, LLC

LICENSEE:

The City of San Diego
a California Municipal corporation

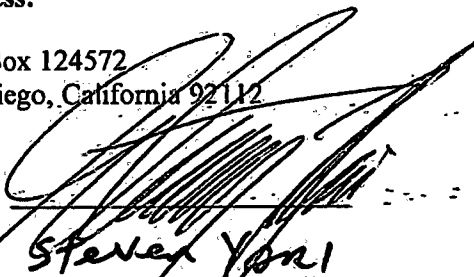
all Delaware limited liability companies

Address:

P.O. Box 124572
San Diego, California 92112

Address:

1200 Third Avenue
San Diego, CA 92101

By: 

Name: Steven Yon

Title: Authorized Signatory

By: Penny Maus
Penny Maus (Sep 6, 2023 11:57 PDT)

Name: Penny Maus

Title: Director, Department of Real
Estate and Airport Management

Date: 8/10/23

Date: Sep 6, 2023

Approved As to Form this 6th day
of September, 2023.

MARA W. ELLIOT,
CITY ATTORNEY

By: Andrew J. Alfonso
Andrew J. Alfonso (Sep 6, 2023 12:21 PDT)

Name: Andrew J. Alfonso
Title: Deputy City Attorney

EXHIBIT A

PREMISES

Horton Plaza

Broadway Cir
Horton Plaza

Broadway Cir

The Westin San Diego
Gaslamp Quarter
435 (2048)
4-star hotel



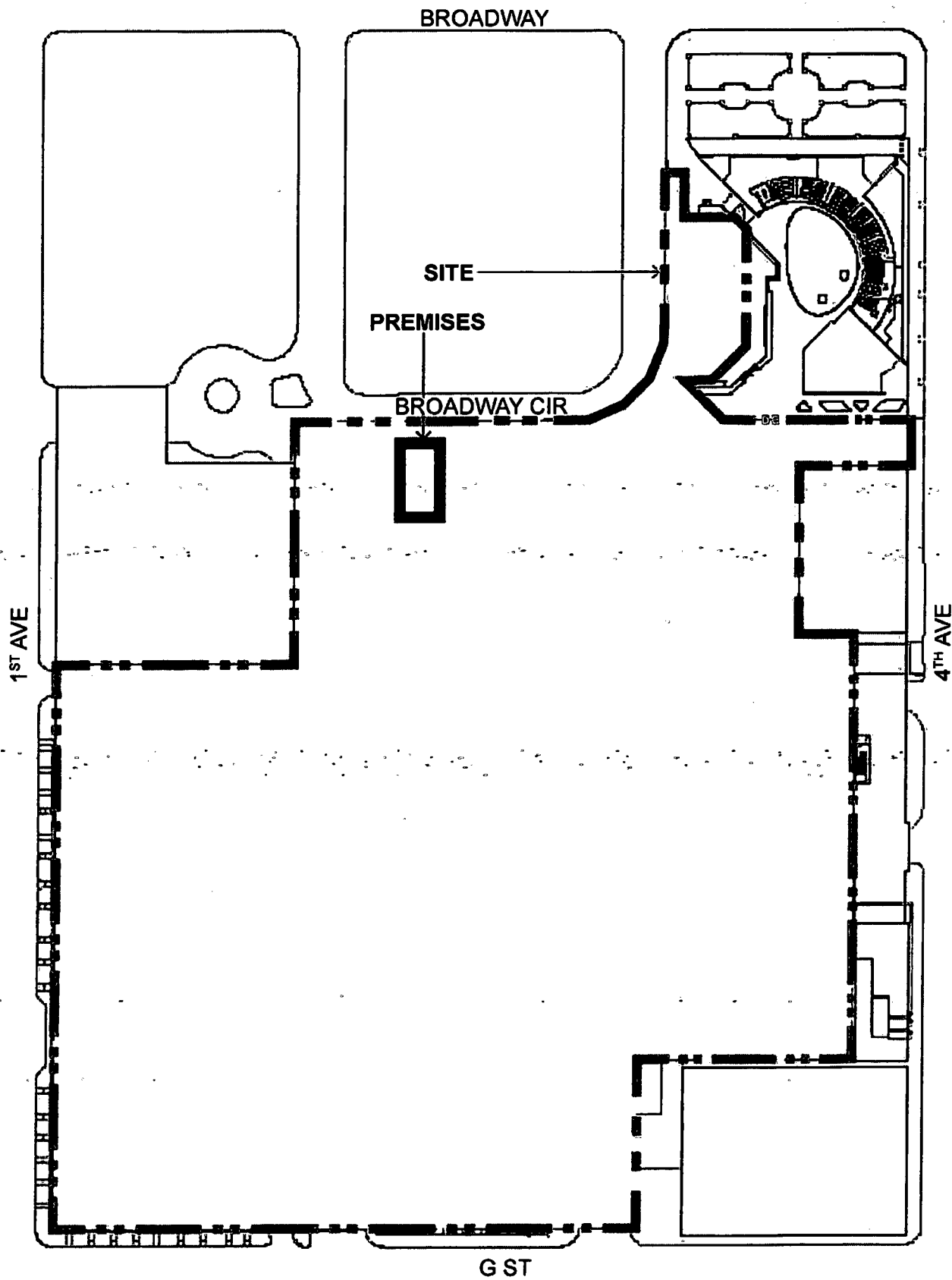


EXHIBIT B

RULES AND REGULATIONS

These Rules and Regulations are in addition to the terms, covenants, agreements and conditions of any lease of space in the Project. In the event these Rules and Regulations conflict with any provision of the Lease, the Lease shall control. Licensor reserves the right to modify and make such other and reasonable Rules and Regulations as, in its judgment, may from time to time be needed for safety and security, for care and cleanliness of the Project and for the preservation of good order therein. Licensee agrees to abide by all such Rules and Regulations hereinabove stated and any additional rules and regulations which are adopted. Licensee shall be responsible for the observance of all the foregoing Rules and Regulations by Licensee's employees, agents, clients, customers, invitees and guests. Licensor may waive any one or more of these Rules and Regulations for the benefit of Licensee or any other occupant of the Project, but no such waiver by Licensor shall be construed as a waiver of such Rules and Regulations in favor of Licensee or any other occupant, nor prevent Licensor from thereafter enforcing any such Rules and Regulations against any or all of the occupants of the Project, including Licensee.

1. Signs/Advertising. Except as otherwise provided in the Lease, no sign, placard, picture, advertisement, name or notice shall be installed or displayed on any part of the outside or inside of the Project without the prior written consent of Licensor. Licensor shall have the right to remove, at Licensee's expense and without notice, any sign installed or displayed in violation of this rule.
2. No Obstructions. Licensee shall not obstruct any sidewalks, halls, exits, entrances, malls, elevators, stairways or other passageways of the Project. The halls, exits, entrances, malls, elevators, stairways and other passageways are not for the general public, and Licensor shall in all cases retain the right to control and prevent access thereto by all persons whose presence, in the judgment of Licensor, would be prejudicial to the safety, character, reputation or other interests of the Project and its Licensees; however, nothing herein shall be construed to prevent access to the Premises by persons with whom Licensee normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. Neither Licensee nor any employee or invitee of Licensee shall go upon the roof of the Project without Licensor's consent. Licensee shall not have the right to maintain displays of or to sell merchandise in the Common Areas or to use Common Areas in any manner, which would interfere with the rights of other Licensees to use and access Common Areas.
3. Directory. The directory of the Project, if any, will be provided exclusively for the display of the name and location of Licensees only, and Licensor reserves the right to exclude any other names therefrom.
4. Keys. Licensee will furnish Licensor, free of charge, with two keys and access cards for each lock in the Premises. Licensee, upon the termination of its tenancy, shall deliver to Licensor the keys of all doors in the Premises, and in the event of loss of any keys so furnished, shall pay Licensor therefor. All others will be furnished to Licensee at a cost of Thirty and 00/100 Dollars (\$30.00) per card or a mutually agreed upon price for each other access device. Any future increase in the cost of cardkeys and other access devices will be passed on to Licensee for any additional cardkeys and other access devices required.

5. Alarms. If Licensee requires telephonic, burglar alarm or similar services, it shall first obtain Licensor's approval thereof, which shall not be unreasonably withheld by Licensor, and Licensee shall comply with all of Licensor's instructions in their installation.
6. Freight Elevator. Any freight elevator shall be available for use by all occupants of the Project, subject to such reasonable scheduling as Licensor in its discretion shall deem appropriate. No equipment, materials, furniture, packages, supplies, merchandise or other property will be received in the Project or carried in the elevators except between such hours and in such elevators as may be designated by Licensor. Licensee must use their dedicated freight elevator.
7. Floor Loading. Licensee shall not place a load upon any floor of the Premises which exceeds the load per square foot, which such floor was designed to carry and which is allowed by law. Licensor and Licensor's consultant, the cost of which consultant shall be borne by Licensee, shall have the right to prescribe the weight, size and position of all equipment, materials, furniture or other property brought into the Project. Heavy objects, if such objects are considered necessary by Licensee, shall stand on such platforms as determined by Licensor or its consultant to be necessary to properly distribute the weight. Business machines and mechanical equipment belonging to Licensee which cause noise or vibration that may be transmitted to the structure of the Project or to any space therein to such a degree as to be objectionable to Licensor or to any other occupant of the Project, shall be placed and maintained by Licensee, at Licensee's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. The persons employed to move such equipment in or out of the Project must be approved by Licensor. Licensor will not be responsible for loss of, or damage to, any such equipment or other property from any cause, and all damage done to the Project by maintaining or moving such equipment or other property shall be repaired at the expense of Licensee. If Licensee fails to repair in an expeditious manner any and all damage caused, then Licensor may (but shall not be obligated to) contract for the performance of the repair work, which work shall be billed to Licensee and shall be payable by Licensee to Licensor as Additional Rent within 10 days after Licensee's receipt of the billing.
8. Flammable; Toxic Material. Licensee shall not use or keep in the Premises any kerosene, gasoline or inflammable or combustible fluid or material except in those limited quantities necessary for the operation or maintenance of Licensee's equipment, and then only in such a manner as to ensure the safety of the Premises. Licensee shall not use or permit to be used in the Premises any foul or noxious gas or substance, or permit or allow the Premises to be occupied or used in a manner offensive or objectionable to Licensor or other occupant of the Project by reason of noise, odors or vibrations, nor shall Licensee bring into or keep in or about the Premises any birds or animals, except seeing-eye dogs when accompanied by their masters. For the avoidance of doubt, any equipment necessary or useful for Licensee to conduct Police- and law enforcement-related activities is not prohibited by this Section.
9. Wastage. Licensee agrees to cooperate fully with Licensor to assure the most effective operation of the Project's heating, air conditioning and other utility distribution systems, and to comply with any governmental energy-saving rules, laws or regulations of which Licensee has actual notice.
11. Exclusion of Persons. Licensor reserves the right to prevent access to the Project in case of invasion, mob, riot, public excitement or other commotion by closing the doors or by other appropriate action. Licensor reserves the right to exclude or expel from the Project any person who, in Licensor's judgment, is intoxicated, or under the influence of liquor or drugs, or who is in violation of any of the Rules and Regulations of the Project.

10. Licensee Security. Licensee shall close and lock the doors of the Premises and entirely shut off all water faucets or other water apparatus. Licensee shall be responsible for any damage or injuries sustained by other occupants of the Project or by Licensor for noncompliance with this rule. Licensee assumes any and all responsibility for protecting the Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed.
11. Lavatories. The toilet rooms, toilets, urinals, wash basins and other 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. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by Licensee if and to the extent caused by Licensee or its employees or invitees.
12. No Sales. Licensee shall not sell any item from the Premises that is not specifically permitted as part of Licensee's Permitted Use. Licensee shall not use the Premises for any business or activity other than that specifically provided in Licensee's Lease.
13. Wiring. Licensor reserves the right to direct electricians as to where and how telephone, telegraph, telecommunication and computer wires are to be introduced to the Premises.
14. Vending Machines. Licensee shall not install, maintain or operate upon the Premises any vending machine without the written consent of Licensor.
15. Refuse. Licensee shall store all its trash and garbage within its Premises. Licensee shall not place in any trash box or receptacle any material which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by Licensor.
16. Storage. Except as specifically permitted in the Basic Lease Provisions, the Premises shall not be used for the storage of merchandise held for sale to the general public, nor for lodging, nor for manufacturing of any kind, nor shall the Premises be used for any improper, immoral or objectionable purpose. Other than restaurants, no cooking shall be done or permitted by Licensee in the Premises, except that use by Licensee of Underwriters' Laboratory-approved equipment for brewing coffee, tea, hot chocolate and similar beverages shall be permitted, and the use of a microwave oven shall be permitted, so long as such equipment and use is in accordance with all recommendations of the manufacturer thereof and all applicable federal, state, county and city laws, codes, ordinances, rules and regulations.
17. No Blockage. Licensee shall not use in any space or in the public halls of the Project any mail carts or hand trucks except those equipped with rubber tires and side guards or such other material handling equipment as Licensor may approve.
18. Safety Compliance. Licensee shall comply with all safety, fire protection and evacuation procedures and regulations established by Licensor and any governmental agency.
19. Graffiti. All graffiti on the Premises shall be removed or painted over to match the color of the wall surface to which it is applied within 24 hours of its occurrence.
20. Noise Abatement. Loading or unloading any vehicle, or the operation of any carts, dollies, forklifts, or other wheeled equipment, which causes any impulsive sound, raucous or unnecessary noise shall not take place between the hours of 10 p.m. and 7 am.
21. Public Address System. No outside public address system is permitted.

22. Video Games. There shall be no coin operated electronic, video or mechanical game machines maintained upon the Premises at any time.
23. Licensee shall give immediate notice to the Building Manager in case of accidents in the Leased Premises or in the Building or of defects therein or in any fixtures or equipment, or of any known emergency in the Building.
24. Canvassing, soliciting or peddling in the Building is prohibited and Licensee shall cooperate to prevent same.
25. Any additional services as are routinely provided to Licensees, not required by the License Agreement to be performed by Licensor, which Licensee requests Licensor to perform, and which are performed by Licensor, shall be billed to Licensee at Licensor's cost plus fifteen percent (15%).
26. Licensor reserves the right to rescind any of these Rules and Regulations of the Building, and to make such other and further rules and regulations as in its judgment shall from time to time be needful for the safety, protection, care and cleanliness of the Building, the Leased Premises and the Parking Areas, the operation thereof, the preservation of good order therein and the protection and comfort of the other Licensees in the Building and their agents, employees and invitees, which rules and regulations, when made and written, notice thereof is given to Licensee, shall be binding upon Licensee in like manner as if originally herein prescribed.
27. Licensee shall not use the Premises or permit the Premises to be used for photographic, multilith or multigraph reproductions, except in connection with its own business.
28. Licensee, or its employees, agents, servants, visitors, invitees or licensees of Licensee, shall not smoke or permit to be smoked cigarettes, cigars or pipes within the Leased Premises or Building or possess any lighted tobacco products. Smoking shall be confined to area(s) designated by Licensor but shall in no event be closer than twenty-five feet (25') to any entrance to the Building. Licensor shall have no obligation to Licensee for failure of another Licensee, its employees, agents, servants, visitors, invitees or licensees to comply with this paragraph.
29. The unlicensed carrying of firearms of any kind in the Leased Premises or the Building is strictly prohibited.
30. Licensee shall notify Licensor of furniture or equipment to be removed from the Building after hours. Description and serial numbers shall be provided if requested by Licensor.
31. All Christmas and other decorations must be constructed of flame-retardant materials.

8/25/2023



Attachment B

Environmental Determination (NORA)	
Environmental Planner	Jordan Moore (jtmoores@sanidiego.gov)
Project Name	SDPD Satellite Office at Horton Plaza License Agreement
Environmental Determination	Categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).
Date NORA Posted	8/10/2023
Date NORA Removed	8/24/2023