

(O-2002-18)

ORDINANCE NUMBER O- 18981 (NEW SERIES)

ADOPTED ON SEP 10 2001

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO
EXECUTE A TRAILER LEASE AGREEMENT WITH BERT'S
OFFICE TRAILER RENTALS.

WHEREAS, the Graffiti Control Division, currently located at the Central Operations Building at 1970 B Street, will be relocated to City-owned property at 1750 Caminito Chollas, next door to the rest of their division at the Chollas Operations Yard, thus centralizing the divisions' operations and providing needed expansion space for the Storm Water Pollution Prevention Program at the Central Operations Building; and

WHEREAS, the City and Bert's Office Trailer Rentals have negotiated a Trailer Lease for the lease of a 48' x 60' trailer (approximately 2,880 square feet) to be used as general office space, at a monthly rental rate of approximately \$0.49 per square foot or \$1,392.13 per month. The term of the lease will be for five (5) years, and is currently scheduled to commence on September 15, 2001 and expire on September 14, 2006. The lease also contains an Option to Extend the lease for two additional five (5) year periods and an Option to Purchase; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the City Manager is authorized to execute, for and on behalf of the City of San Diego, a Trailer Lease Agreement with Bert's Office Trailer Rentals for the lease of a 48' x 60' trailer (approximately 2,880 square feet), at a monthly rental rate of approximately \$0.49 per square foot or \$1,392.13 per month, for an initial term of five (5) years, under the terms and

conditions set forth in that Trailer Lease agreement on file in the office of the City Clerk as

Document No. OO- **18981**

Section 2. That the City Auditor and Comptroller is authorized to expend an amount not to exceed \$86,871.73 from Fund 100, Department 601, for rental, relocation and data infrastructure costs from the FY2002 budget.

Section 3. That a full reading of this Ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This Ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By


Debra J. Beyier
Deputy City Attorney

DJB:mm
07/26/01
Or.Dept:READ
O-2002-18
Form=leaseord.frm

Passed and adopted by the Council of The City of San Diego on September 10, 2001
by the following vote:

YEAS: PETERS, WEAR, ATKINS, STEVENS, MAIENSCHIN, FRYE, MADAFFER,
INZUNZA, MAYOR MURPHY

NAYS: NONE

NOT PRESENT: NONE

VACANT: NONE

AUTHENTICATED BY:

DICK MURPHY
Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(Seal)

By: Ramone Lewis, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE
NO. O- 18981 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days had
elapsed between the day of its introduction and the day of its final passage, to wit, on
August 6, 2001 and on September 10, 2001.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of
not less than a majority of the members elected to the Council, and that there was available for the
consideration of each member of the Council and the public prior to the day of its passage a written
or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(Seal)

By: , Deputy

TRAILER LEASE AGREEMENT

BERT'S OFFICE TRAILER RENTALS (Lessor) of 1143 East Main Street, El Cajon, California 92021, hereby rents and hires to **CITY OF SAN DIEGO, A CALIFORNIA MUNICIPAL CORPORATION** (Lessee)

Address: **1200 THIRD AVE., STE. 1700, SAN DIEGO, CA. 92101**

Telephone Number: **(619) 236-6020**

LOCATION TO WHICH TRAILERS AND EQUIPMENT ARE TO BE DELIVERED AND MAINTAINED IF DIFFERENT THAN LESSEE'S ADDRESS ABOVE: **GRAFFITI DIVISION, 1750 CAMINITO CHOLLAS, SAN DIEGO, CA. 92105**

Trailer Size **48 X 60** Make **UNITED MODULAR**

License Number _____ Serial Number _____

Other Equipment: _____

Term and Rent: This lease starts **SEPTEMBER 15, 2001** or upon delivery of the trailer and continues for **60** months.

Rent **\$1,295.00**

Rent per month is **\$1,392.13** including **7.5%** tax.

Tax **\$97.13**

Rent is payable on the **1ST** day of each month commencing **SEPTEMBER 15, 2001**. After lease ends this becomes a month-to-month agreement.

Number of Rental Payments **60**

Options Include: ADA Ramp \$4,000-\$4,500.00

Set-up Charge **\$ 4,500.00**

State approved permanent foundation system \$8,000.00

Dismantle Charge **\$ 2,000.00**

Tie-downs \$65.00 each

Skirting Charge **\$ 1,944.00**

Freight Charges **\$ 1,600.00**

Awning Charges **\$ 550.00**

Total: **\$10,594.00**

PAYMENTS:

Lessee will pay **\$1,392.13** for the first months rent and **\$-0-** for the security deposit, and **\$10,594.00** for set-up, dismantling, skirting, freight and awning charges for a total sum of **\$11,986.13**.

INSURANCE:

Lessee shall furnish within five (5) days a certificate of insurance insuring the equipment in the sum of **\$75,000.00** naming Bert's Office Trailer Rentals as additional insured and loss payee.

STIPULATED LOSS VALUE: The stipulated loss value is **\$75,000.00**. The terms and conditions are set forth in this Lease.

DOCUMENT NO. **00-18981**
 FILED **SEP 10 2001**
 OFFICE OF THE CITY CLERK
 SAN DIEGO, CALIFORNIA

BERT'S OFFICE TRAILER RENTALS
TRAILER LEASE AGREEMENT

NOTICE TO THE LESSEE

1. DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES TO BE FILLED IN. YOU ARE ENTITLED TO A COMPLETELY FILLED IN COPY OF THIS AGREEMENT.
2. IF YOU DEFAULT IN THE PERFORMANCE OF YOUR OBLIGATIONS UNDER THIS AGREEMENT, THE TRAILER MAY BE REPOSSESSED ANY YOU MAY BE SUBJECT TO SUIT AND LIABILITY FOR THE UNPAID INDEBTEDNESS EVIDENCED BY THIS AGREEMENT.
3. WARNING: UNLESS A CHARGE IS INCLUDED IN THIS AGREEMENT FOR PUBLIC LIABILITY OR PROPERTY DAMAGE INSURANCE, PAYMENT FOR SUCH COVERAGE IS NOT PROVIDED BY THIS AGREEMENT.
4. A THIRTY (30) DAY WRITTEN NOTICE IS REQUIRED BY LESSOR FROM LESSEE FOR THE PICK-UP AND RETURN OF OFFICE TRAILER TO LESSOR.
5. DELIVERY, SET-UP, DISMANTLE AND REMOVAL IS BASED ON LEVEL AND ACCESSIBLE GROUND. ANY WAITING TIME OR JACKING OF TRAILER IN OR OUT OF ITS LOCATION WILL BE BILLED TO LESSEE AT \$40.00 PER HOUR.
6. UNLESS WRITTEN ON THE FRONT OF THIS AGREEMENT, TIRES AND AXLES WILL REMAIN ON THE TRAILER DURING THE TERM OF THIS LEASE AND LESSEE WILL BE RESPONSIBLE FOR THEM. IF TIRES ARE MISSING, THE REPLACEMENT COST WILL BE \$60.00 PER TIRE. AXLE COST IS \$150.00 EACH, PLUS LABOR TO INSTALL THEM.

TRAILER LEASE TERMS

1. **RENT**-Lessee shall pay Lessor said rent in advance on the 1st day of each month in the amount of **\$1,392.13**. Rent payments shall be mailed to the office of the Lessor at **1143 E. Main St., El Cajon, California 92021**, or to such other person or at such other place as Lessor may from time to time designate in writing.
2. **PERMISSIBLE USE**-Lessee shall use the trailers and equipment described herein in a careful and proper manner and shall comply with and conform to all national, state, municipal, police, and other laws, ordinances, and regulations in anywise relating to the possession, use, or maintenance of the equipment, including, but not limited to, land use and zoning ordinances. Lessee shall be responsible for all permits and governmental fees. Lessee

shall not make any alterations, additions, or improvements to the trailers or equipment subject to this Lease without the prior written consent of Lessor. All additions and improvements of whatever kind or nature made to the trailers or items of equipment shall belong to and become property of the Lessor on the expiration, or earlier termination, of this Lease unless agreed in writing otherwise by Lessee.

3. **LESSEE'S INSPECTION OF TRAILERS AND EQUIPMENT-CONCLUSIVE PRESUMPTION**-Lessee shall inspect the trailers and equipment within forty-eight (48) hours after receipt thereof. Unless Lessee within said period of time gives written notice to Lessor, specifying any defect in or other proper objection to the trailers and equipment, Lessee agrees that it shall be conclusively presumed, as between Lessor and Lessee, that Lessee has fully inspected and acknowledged the trailers and equipment are in good condition and repair, and that Lessee is satisfied and has accepted the trailers and equipment in such good condition and repair.
4. **LESSOR'S INSPECTION**-Upon a 24 hour notice to Lessee, during Lessee's business hours, Lessor shall have the right to enter into and on the premises where the trailers and equipment may be located for the purpose of inspecting same or observing its use. In the event of an emergency, no prior notice is required. Lessee shall give Lessor immediate notice of any attachment or other judicial process affecting any trailers or items of equipment and shall, whenever requested by Lessor, advise Lessor of the exact location of the trailers and equipment.
5. **REPAIRS AND MAINTENANCE**-Except for loss or damage caused or incurred by Lessee and for which Lessee shall be financially responsible, Lessor shall keep the trailer and all equipment in good repair and good working order. Lessee is responsible for cleaning or changing all A/C filters and for replacement of fluorescent light tubes.
6. **LOSS AND DAMAGE-STIPULATED LOSS VALUE**-Lessee hereby assumes and shall bear the entire risk of loss and damage to the trailers and equipment from any and all cause unless the damage is caused by the Lessors negligence. No loss or damage to the trailers or equipment or any part thereof shall impair any obligation of Lessee under this Lease, which shall continue in full force and effect. In the event of loss or damage of any kind whatever to any trailers or item of equipment (excluding reasonable wear and tear), Lessee at the option of Lessor shall (a) place the same in good repair, condition, and working order; or (b) replace the same with like trailer or equipment in good repair, condition and working order; or, if same is determined by Lessor to be lost, stolen, destroyed, or damaged beyond repair, Lessee shall (c) pay Lessor therefor in cash the "the stipulated loss value" as set forth herein. On payment of said "stipulated loss value", this Lease shall terminate with respect to such trailer or item of equipment so paid for and

Lessee thereon shall become entitled to said trailer or item of equipment as-is-where-is without warranty, expressed, or implied with respect to any manner whatsoever.

7. **INSURANCE**-Lessor is aware that Lessee is self insured and Lessee's Risk Management Department will provide evidence of insurance to Lessor. Lessee shall keep each trailer and item of equipment insured against all risks of loss or damage of every cause whatsoever for not less than the full replacement value thereof as determined by Lessor and shall carry public liability and property damage insurance covering each trailer and item of equipment. All said insurance shall be in form and amount and with companies approved by Lessor, and shall be in the joint names of Lessor and Lessee. Lessee shall pay the premiums therefor and deliver said policies or duplicates thereof to Lessor. Each insurer shall agree, by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor, that it will give Lessor thirty (30) days written notice before the policy in question shall be altered or canceled. The proceeds of such insurance, at the option of Lessor, shall be applied (a) toward the replacement, restoration, or repair of the trailer or item of equipment insured, or (b) toward payment of the obligations of Lessee hereunder.
8. **LEVIES, LIENS AND ENCUMBRANCES**-Lessee shall keep the trailers and equipment free and clear of all levies, liens, and encumbrances.
9. **INDEMNITY**-Lessee shall indemnify Lessor against and hold Lessor harmless unless the cause is Lessors negligence from any and all claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including attorneys fees, arising out of, conducted with, or resulting from the trailers and equipment, including without limitation, the possession, use, operation, alterations, or modifications of the trailers and equipment.
10. **REMEDIES ON DEFAULT**-If Lessee, with regard to any trailer or items of equipment, fails to pay any rent or other amount herein provided within ten (10) days after the same is due and payable, or if Lessee with regard to any of the trailers or items of equipment fails to observe, keep, or perform any other provision of this Lease required to be observed, kept, or performed by Lessee, Lessor shall have the right to exercise any one or more of the following remedies:
 - 10.1 To declare the entire amount of rent hereunder immediately due and payable as to any trailer or items of equipment without notice or demand to Lessee.
 - 10.2 To sue for and recover all rents, and other payments, then accrued or thereafter accruing with respect to any of the trailers or any items of equipment

- 10.3 To take possession of any or all trailers or items of equipment without demand or notice, wherever same may be located, without any court order or other process of law. Lessee hereby waives any and all damages occasioned by such taking of possession. Any said taking of possession shall not constitute a termination of this Lease as to any and all trailers or items of equipment unless Lessor expressly so notifies Lessee in writing.
- 10.4 To terminate this Lease as to any trailers or items of equipment; and
- 10.5 To pursue any other remedy at law or in equity. Notwithstanding any said repossession or any other action which Lessor may take. Lessee shall be and remain liable for the full performance of all obligations on the part of Lessee to be performed under this Lease.

All such remedies set forth above are cumulative and may be exercised concurrently or separately.

No right or remedy herein conferred on or reserved to Lessor is exclusive of any other right or remedy provided or permitted herein or by law or equity: but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

- 11. **ASSIGNMENT**-Without the prior written consent of Lessor, Lessee shall not (a) assign, transfer, pledge, or hypothecate this Lease, the trailers, or equipment, or any part thereof, or any interest therein, or (b) sublet or lend any of the trailers or equipment, or any part thereof, or permit said trailers or equipment or any part thereof to be used by anyone other than Lessee or Lessee's employees. Consent to any of the foregoing prohibited acts applies only in the given instance, and is not a consent to any subsequent like act by Lessee or any other person. The consent of Lessor to any of the foregoing prohibited acts shall not be unreasonable withheld.
- 12. **LESSOR'S ASSIGNMENT**-It is understood that Lessor may contemplate assigning this Lease or mortgaging the trailers or equipment and that said assignee may assign the same. All rights of Lessor hereunder may be assigned, pledged, mortgaged, transferred, or otherwise disposed of, either in whole or in part, without notice to Lessee. If Lessor assigns this Lease or the rentals due or to become due hereunder or any other interest herein, whether as security for any of its indebtedness or otherwise, no breach or default by Lessor hereunder or pursuant to any other agreement between Lessor or Lessee, should there be one, shall excuse performance by Lessee of any provision hereof. No such assignee may be obligated to perform any duty,

covenant or condition required to be performed by Lessor under the terms of this Lease.

13. **OWNERSHIP**-The trailers and equipment are, and shall at all times be and remain, the sole and exclusive property of Lessor, and the Lessee shall have no right, title, or interest therein or thereto except as expressly set forth in this Lease.
14. **NON-WAIVER**-No covenant or condition of this Lease can be waived except by the written consent of Lessor. Forbearance or indulgence by Lessor in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Lessee to which the same may apply, and, until complete performance by Lessee of said covenant or condition. Lessor shall be entitled to invoke any remedy available to Lessor under this Lease or by law or in equity despite said forbearance or indulgence.
15. **INTEGRATION CLAUSE**-This instrument constitutes the entire agreement between Lessor and Lessee and it shall not be amended, altered or changed except by a written agreement signed by the parties hereto.
16. **NOTICES**-Service of all notices under this agreement shall be sufficient if given personally or mailed to the party involved at its respective address set forth above, or at such address as such party may provide in writing from time to time. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed, and with postage paid or faxed.
17. **INTERPRETATION OF GENDER NUMBER**-Whenever the context of this Lease requires the masculine gender includes the feminine or neuter and the singular number includes the plural, and whenever the word Lessor is used herein, it shall include the assignees of Lessor. If there is more than one Lessee named in the Lease, the liability of each shall be joint and severable and whenever the word Lessee is used herein, it shall include all Lessees regardless of number.
18. **TITLE OR ARTICLES**-The titles to the articles of this Lease are solely for the convenience of the parties and are not an aid in the interpretation of the instrument and are not to be used to construe the meaning of any of the language in the article thereunder.
19. **TIME**-Time is of the essence in this Lease and each and all of its provisions.
20. **OPTION TO PURCHASE**-Lessee shall have an option to purchase the trailer during the lease term upon agreeable negotiations between Lessor and Lessee.

21. **LESSEES WAIVER OF OFFSET AND ASSUMPTION OF LIABILITY-** Lessee shall not be entitled to any abatement of rent and other amounts due hereunder or any reduction thereof whatsoever. Lessee hereby waives any and all existing and future claims, as offsets against any rent and other payments due hereunder and agrees to pay the rent or other payments due as and when due regardless of any offset or claim which may be asserted by Lessee or on its behalf. This Lease shall not terminate, or the respective obligations of Lessor or Lessee be otherwise affected or Lessor have any liability whatsoever to Lessee, by reason of any defect in or damage to or loss or destruction of any or all trailers or items of equipment from whatever cause, prohibition, commercial frustration, or impracticability of Lessee's use of the trailers or equipment or any item thereof or the interference with such use by any government, person, or corporation. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the independent contractor and nothing contained in this Lease shall authorize Lessee or any other person to operate or use any of the trailers or items of equipment so as to incur or impose any liability or obligation for, or on behalf of Lessor.
22. **APPLICABLE LAW-**Lessee acknowledges that the last act necessary to the formation of this Lease is the acceptance and execution of this Lease by Lessor at Lessors principle place of business located in the City of El Cajon, State of California. Accordingly, it is agreed that the rights of the parties under this Lease shall be governed by the laws of the State of California. It is further agreed that if any action is brought to enforce the provisions of this Lease by either party, the City of El Cajon, East County Judicial District shall be a proper place for the trial of such action.
23. **LESSEE-**is responsible for all utility connections and disconnection.
24. **OPTION TO EXTEND LEASE-**Lessee shall have two five (5) year options to extend the lease term by providing Lessor with a ninety (90) days prior written notice of its intent to extend the term.

ACKNOWLEDGMENT

Lessee hereby acknowledges receipt of a copy of this Lease and agrees to be bound by all the provisions.

LESSOR:

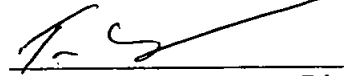
BERT'S OFFICE TRAILER RENTALS
1143 East Main Street
El Cajon, CA. 92021 (619) 442-6668


Steve Epstein

Steve Epstein MGR
Name printed and title

LESSEE:

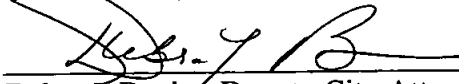
CITY OF SAN DIEGO, A
CALIFORNIA MUNICIPAL
CORPORATION
Real Estate Asset Department
1200 Third Avenue, Ste. 1700
San Diego, CA. 92101


Tim C. Rothans-Deputy Director

Tim C. Rothans Deputy Director
Name print and title

Approved as to form and legality, this 21st day of Sept, 2001.

Casey Gwinn, City Attorney

By: 
Debra J. Bevier, Deputy City Attorney

0-18981