

1-p2 Count 3-7-05 R-300191

READ#119

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

COPY

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)

N/A

TO: CITY ATTORNEY	2. FROM (ORIGINATING DEPARTMENT): REAL ESTATE ASSETS DEPARTMENT	3. DATE: 11/15/2004
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4. SUBJECT:
Office Space License - Police Department - WAVEHOUSE AT BELMONT PARK

5. FOR INFORMATION, CONTACT (NAME & MAIL STA.) GIBSON/Anthony	6. TELEPHONE NO. 66727/36509	7. CHECK HERE IF BOX 1472A "DOCKET" SUPPORTING INFORMATION HAS BEEN COMPLETED ON PAGE 2: ☒
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8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.					Cost: None
ORGANIZATION					Fiscal Impact: None
OBJECT ACCOUNT					Job: 223183
JOB ORDER					cc: Docket Clerk
C.I.P. NUMBER					Thomas Guide Map Page: 1267-H2
AMOUNT					

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	DEPARTMENT DIRECTOR	<i>[Signature]</i>	1-11-05	8	CITY MANAGER	<i>[Signature]</i>	2-2-05
2	DSD/EAS	<i>[Signature]</i>	1-11-05	9	AUDITOR	<i>[Signature]</i>	2/11/05
3	RISK MGMT.	<i>[Signature]</i>	1-12-05	10	CITY ATTORNEY	<i>[Signature]</i>	2/18/05
4	FINANCIAL MGMT.	<i>[Signature]</i>	2/8/05	11	ORIGINATING DEPARTMENT	<i>[Signature]</i>	2/22/05
5	POLICE DEPT.	<i>[Signature]</i>	1/28/05		MGR. DOCKET COORD.		COUNCIL REP.
6	EOCP Memo 5-3-96				RULES COMMITTEE	☐ CONSENT ☐ ADOPTION	
7					☐ REFER TO: _____	DATE: _____	

11. PREPARATION OF: ☒ RESOLUTIONS ☐ ORDINANCE(S) ☐ AGREEMENT(S) ☐ DEED(S)

1. Authorize the City Manager to execute a 16-month license agreement with an option to extend the term for up to an additional three (3) years with Wavehouse San Diego, LLC, a California limited liability company. The Police Department will occupy approximately 110 square feet of space in Building #2 at 3146 Mission Boulevard, at Belmont Park in Mission Bay Park for use as a police storefront.

11A. MANAGER'S RECOMMENDATIONS:

Adopt the Resolution

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): 02

COMMUNITY AREA(S): Mission Beach

CITY CLERK INSTRUCTIONS: License submitted in triplicate for execution by the City Manager

ENVIRONMENTAL IMPACT: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15301.

OTHER ISSUES: DO NOT RECORD. Return documents to Real Estate Assets Department, Attention Jim Anthony, M.S. 51A, for further handling.

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5	POLICE DEPT.	<i>[Signature]</i>	1/28/05		MGR. DOCKET COORD.		COUNCIL REP.
6	EOCP Memo 5-3-96				RULES COMMITTEE	☐ CONSENT	☐ ADOPTION
7						☐ REFER TO: _____	DATE: _____

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1. Authorize the City Manager to execute a 16-month license agreement with an option to extend the term for up to an additional three (3) years with Wavehouse San Diego, LLC, a California limited liability company. The Police Department will occupy approximately 110 square feet of space in Building #2 at 3146 Mission Boulevard, at Belmont Park in Mission Bay Park for use as a police storefront.

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DOCKET SUPPORTING INFORMATION
CITY OF SAN DIEGO

DATE:

11/15/2004

SUBJECT:

Office Space License - Police Department - WAVEHOUSE AT BELMONT PARK

BACKGROUND:

Wavehouse San Diego, LLC, operators of Belmont Park in Mission Bay Park, has offered office space at no cost to the San Diego Police Department for operation of a police storefront. The Mission Beach Town Council and Wavehouse have agreed to pay the utilities.

The Police Department is proposing to occupy the space under the following terms:

PREMISES: 3146 Mission Boulevard, San Diego

TERM: Sixteen (16) months with an option to extend for up to three (3) additional years by mutual agreement and City Manager approval.

RENT: None

UTILITIES COST: None

USE: Police Storefront

SIZE: 110 square feet

FISCAL IMPACT: None

BY LINE: (CITY MANAGER / DEPT. HEAD / AUTHOR INITIALS)

HERRING/Griffith:JPA

Job: 223183

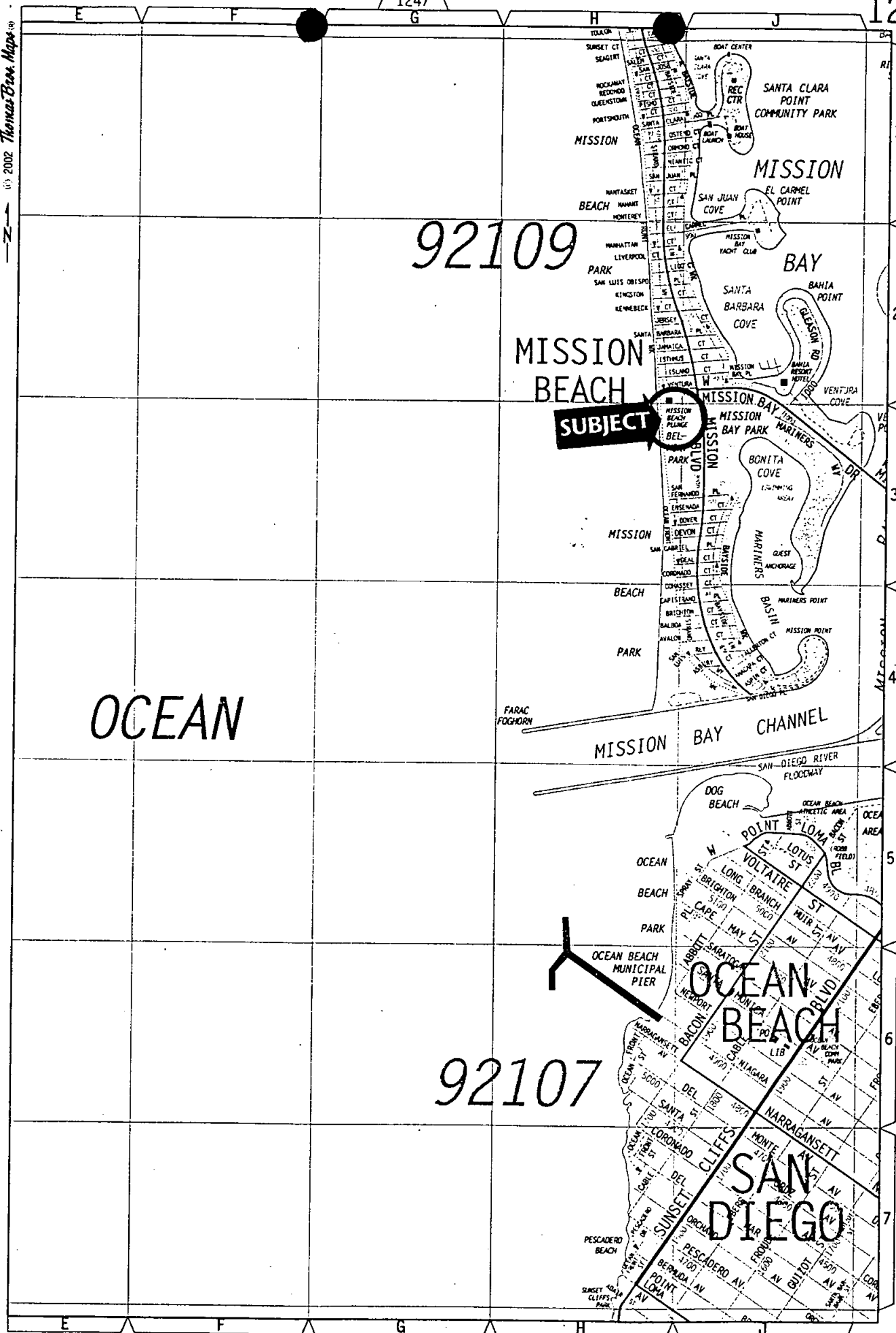
SIGNATURES:

ORIGINATING DEPT. HEAD

CITY MANAGER

(FOR MANAGERIAL DEPARTMENTS ONLY)

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SAN DIEGO CO.

SEE 1268 MAP

RESOLUTION NUMBER R- 300191

ADOPTED ON MAR 07 2005

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO APPROVING A LICENSE AGREEMENT WITH
WAVEHOUSE SAN DIEGO, LLC, FOR A POLICE
DEPARTMENT STOREFRONT AT BELMONT PARK.

WHEREAS, Wavehouse San Diego, LLC, operators of Belmont Park in Mission Bay,
and the San Diego Police Department have agreed to establish a police storefront in Belmont
Park; and

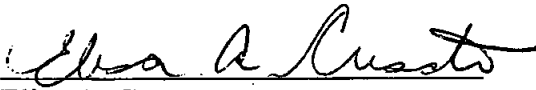
WHEREAS, the Police Department will occupy approximately 110 square feet at
Belmont Park [Premises] at no rent, for a term of 16 months, with an option to extend for up to
three additional years; and

WHEREAS, the Mission Beach Town Council and Wavehouse have agreed to pay the
cost of utilities for the Police Department; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager is
authorized to execute, for and on behalf of the City of San Diego, a 16-month license agreement,
with an option to extend for up to three additional years, with Wavehouse San Diego, LLC, a
California limited liability company, for the Premises located in Belmont Park at 3146 Mission
Boulevard for a Police Department storefront, for no rent, commencing December 1, 2004, on

the terms and conditions substantially as set forth in the License Agreement on file in the office
of the City Clerk as Document No. RR- 300191.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Elisa A. Cusato
Deputy City Attorney

EAC:nda
02/18/05
Or.Dept:READ
R-2005-875
MMS#1325

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-102: Office Space License Agreement with Wavehouse San Diego, LLC for a Police Department Storefront, located at 3146 Mission Boulevard.

(Mission Beach Community Area. District 2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-875)

Authorizing the City Manager to execute a 16-month license agreement, with an option to extend for up to three additional years, with Wavehouse San Diego, LLC, a California limited liability company, for the Premises located in Belmont Park at 3146 Mission Boulevard, for a Police Department storefront, for no rent, commencing December 1, 2004, on the terms and conditions substantially as set forth in the License Agreement.

CITY MANAGER SUPPORTING INFORMATION:

Wavehouse San Diego, LLC, operators of Belmont Park in Mission Bay Park, has offered office space at no cost to the San Diego Police Department for operation of a police storefront. The Mission Beach Town Council and Wavehouse have agreed to pay the utilities.

The Police Department is proposing to occupy the space under the following terms:

PREMISES: 3146 Mission Boulevard, San Diego.

TERM: Sixteen (16) months with an option to extend for up to three (3) additional years by mutual agreement and City Manager approval.

RENT: None.

UTILITIES COST: None.

USE: Police Storefront.

SIZE: 110 square feet.

FISCAL IMPACT:

None.

Herring/Griffith/JPA

Staff: James Anthony – (619) 533-6509

COPY

DUPLICATE ORIGINAL

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is effective on first day of Month following execution, by and between Wave House Belmont Park, LLC, a California limited liability company ("Licensor"), and the City of San Diego, a municipal corporation, ("Licensee").

WITNESSETH:

1. License. Licensor hereby grants to Licensee the non-exclusive right to enter upon the real property commonly known as Belmont Park (the "Business Center"), San Diego, California, as more particularly described and illustrated in Exhibit A attached to this Agreement and incorporated here by this reference, for the purposes set forth below (the "License"). The License shall be subject at all times to such rules and regulations as may be determined by Licensor, in its sole and absolute discretion, from time to time. Licensor may restrict and determine, from time to time, in its sole and absolute discretion, the area or areas within the Business Center where Licensee may use the License within the Premises as illustrated in Exhibit B.
2. Permissible Use. It is expressly agreed that the Premises are licensed to Licensee solely and exclusively for the purposes of operating and maintaining a police storefront and for such other related or incidental purposes and for no other purpose whatsoever.
3. Term. The term of the License shall commence on March 1, 2005, and shall continue for sixteen months (16) until June 30, 2006 (the "Term") unless terminated earlier pursuant to this Agreement. This License may be extended for a period of up to three (3) years by mutual agreement with City Manager approval.
4. Consideration. Licensor agrees to license the Premises in consideration for the City's operation of a police storefront on the property.
5. Operation of Licensee's Business.
 - a. Hours of Operation. Licensee may commence its use of the License on March 1, 2005. Licensee may occupy the Premises and conduct its business on the Premises twenty-four hours per day seven days per week. Licensor reserves the right to adjust the hours by giving Licensee three (3) days advance written notice.
 - b. Compliance with Law. Licensee shall occupy the Premises and operate its business in compliance with all laws, statutes, ordinances or governmental regulations now in force or subsequently enacted or promulgated, and in compliance Licensor's lease from the City of San Diego for the Business Center, whether entered into before or after the date of this Agreement.
 - c. Cleanliness. Premises and area surrounding Premises must be kept free of trash, wrappers, stray product, and any other litter. All equipment must be



DOCUMENT NO. RR-300191

FILED MAR 07 2005
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

Initials

located within Premises. Licensee agrees that all trash and rubbish of Licensee shall only be deposited within receptacles as provided by Licensor and that no trash receptacles shall remain outside the Premises. Should Licensee fail to maintain cleanliness after twenty-four (24) hours, written notice by Licensor to do so, Licensee shall pay to Licensor the sum of fifty dollars (\$50.00) dollars for Licensor's cleanup services, which will be treated as Additional Fees.

Should Licensor determine the Premises are not being maintained in compliance with cleanliness regulations or any and all other legal review, Licensor shall be entitled to put the Premises in a safe, clean, wholesome and sanitary condition and charge the costs and expenses thereby incurred to Licensee as an Additional Fees.

6. Notices. Any notice which either Licensor or Licensee may be required or desires to give or make upon the other may be given personally or by certified mail, deposited with the United States Postal Service, postage prepaid, addressed to Licensor, in care of its Center Manager, at:

Wave House Belmont Park, LLC
3146 Mission Blvd, Suite F
San Diego, CA 92109

or addressed to Licensee at:

City Manager
Attention: Real Estate Assets Director
City Administration Building
202 "C" Street, M.S. 9B
San Diego, CA 92101-4155

7. Maintenance and Alterations. Licensee shall at all times maintain the areas of the Premises and the Business Center used by Licensee in a safe, neat and clean condition and in good order, condition, and repair at its own expense. The Premises shall include without limitation all plumbing, electrical and lighting facilities and equipment within the Premises, fixtures, interior walls and interior surfaces of exterior walls, ceilings, windows, doors, entry doors and plate glass located on the Premises. Licensee shall not permit undue accumulation of garbage, trash, rubbish or other refuse but shall keep such refuse in properly covered adequate containers. Licensee specifically acknowledges that the use of the License shall be subject to the rules and regulations as are established by Licensor from time to time in Licensor's sole and absolute discretion. Licensor shall at all times keep the Building in which the Premises are located and the heating, ventilating, and air conditioning systems servicing the Premises, and all appurtenances thereto, and all sidewalks in reasonably good, clean, safe, secure, and sanitary condition and repair. If Licensee fails to maintain the Premises as specified herein, Licensor shall be entitled to maintain the Premises in a safe,

clean, wholesome and sanitary condition and charge the costs and expenses thereby incurred to Licensee as Additional Fees.

8. Indemnification of Licensors. Licensee shall protect, defend, indemnify and hold harmless Licensors, its agents and employees, from and against any and all liabilities, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature arising or growing out of or in any way connected with Licensee's (or anyone claiming through or under Licensee) use of the License and/or Licensee's operations and activities in the Business Center, excepting any liability or claim arising or growing out of the intentional misconduct or gross negligence of Licensors, its employees and agents.
9. Insurance. Licensee represents to Licensors that it is a self-insured Municipal Corporation, and shall pay all claims which arise from the Licensee's use of the Premises which would normally be covered by a third party insurance carrier. In addition, Licensee shall extend such insurance to Licensors by defending and holding Licensors harmless against all claims which arise from the Licensee's use of the Premises.
10. Assignment. Neither the License, this Agreement, nor any rights under this Agreement shall be assignable by Licensee. Nothing in the Agreement shall create any rights enforceable by any person not a party to this Agreement, except for the rights of the successors-in-interest and assigns of each party to this Agreement, unless such rights are expressly granted in this Agreement, to other specifically identified persons. Any such assignment made by Licensee will result in immediate termination of the License and this Agreement without further notice or opportunity to cure the default. Licensors may send Licensee by certified mail a notice of immediate termination, to confirm the termination. No legal title or leasehold interest in the Premises or Business Center is created or vested in Licensee by the grant of the License.
11. Utilities and Services. The Mission Beach Town Council (MBTC) has agreed by resolution to pay twenty-five (\$25.00) per month, for all utility bills, fees and charges directly attributable to the Premises including use and connection fees, hook-up fees, standby fees or penalties for discontinued or interrupted service for water, gas, electricity, sewer and sanitation and any other service or utility used in or upon or furnished to the Premises (Premises Utility Bill/Fee/Charge), irrespective of whether any such fees, deposits and charges are initially paid or advanced by Licensors. Utility and Services fees are jointly or master metered.

The MBTC will be billed directly by Licensors for the Premises Utility Bill/Fee/Charge. In the event it is not paid by the MBTC, Licensors will accept responsibility for payment. Licensors will also pay any amounts exceeding twenty-five dollars (\$25.00) per month.

In no event shall Licensors be liable for damages or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of



water, gas, electricity, sewer and sanitation or any other service or utility, nor shall any such interruption, reduction, disruption, curtailment or failure constitute or be deemed to constitute constructive eviction of Licensee or relieve Licensee from its obligations under this Agreement.

12. Signs. At Licensee's discretion, Licensee may install signage, including a blade sign, similar to other Licensee Signage in the park. Licensee shall construct, install, and maintain all signage, insignia, trademarks, awnings, descriptive materials, or other such similar items in accordance with the guidelines of the City of San Diego and the Belmont Park Signage Program. All signage must be approved in writing by Licensor, and such approval shall not be unreasonably withheld.
13. Definition of Licensor. The term Licensor shall mean only the person or entity which may from time to time hold Licensor's interest under this Agreement.
14. Waiver. No delay or omission in the exercise of any right or remedy of Licensor in the event of any default by Licensee shall impair such right or remedy or be construed as a waiver. The receipt and acceptance by Licensor of delinquent amounts due under this Agreement shall not constitute a waiver of any previous termination of the Agreement or any default other than the particular payment accepted. Licensor's consent to or approval of any act by Licensee requiring Licensor's consent or approval shall not be deemed to waive or render unnecessary Licensor's consent to or approval of any other subsequent act by Licensee. Any waiver by Licensor of any default must be in writing and shall not be a waiver of any default concerning the same or any other provision of this Agreement.
15. Amendment of Agreement. This Agreement may be amended by Licensor as necessary during the Term to accommodate the needs of the Business Center with the consent of the Licensee, which consent shall not be unreasonably withheld or delayed.
16. Miscellaneous.
 - a. Time is of the essence with respect to the performance of each of the conditions, covenants and agreements contained in this Agreement.
 - b. Licensor does not, by reason of receipt of Percentage Fees or otherwise, in any way or for any purpose, become a partner or joint venturer with Licensee in the conduct of its business.
17. Licensee Improvements. Licensee accepts the Premises in its current condition. Any modifications to the Premises shall be incurred at Licensee's sole expense. Licensee will procure Licensor's approval for all work to be done in the Premises prior to the start of construction.
18. Quiet Enjoyment. Licensee agrees and promises to give the Licensor quiet enjoyment and Licensee will use its best efforts to communicate to Licensor in writing only during the Term of this License.

19. Lessor Consent. Pursuant to Section 4.02 of the lease between the City of San Diego and as assigned to Wave House Belmont Park, LLC, Licensee, as lessor of the property under the lease, consents to this agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Agreement..

Wave House Belmont Park, LLC
A limited liability corporation

By: [Signature]
Thomas J. Lochtefeld
Its: Managing Member
Date FEB 22, 2005

City of San Diego

By: [Signature]
Name: _____
City Manager
Date _____

Pursuant to San Diego
City Council Resolution
No. R- 300191
Dated MAR 07 2005

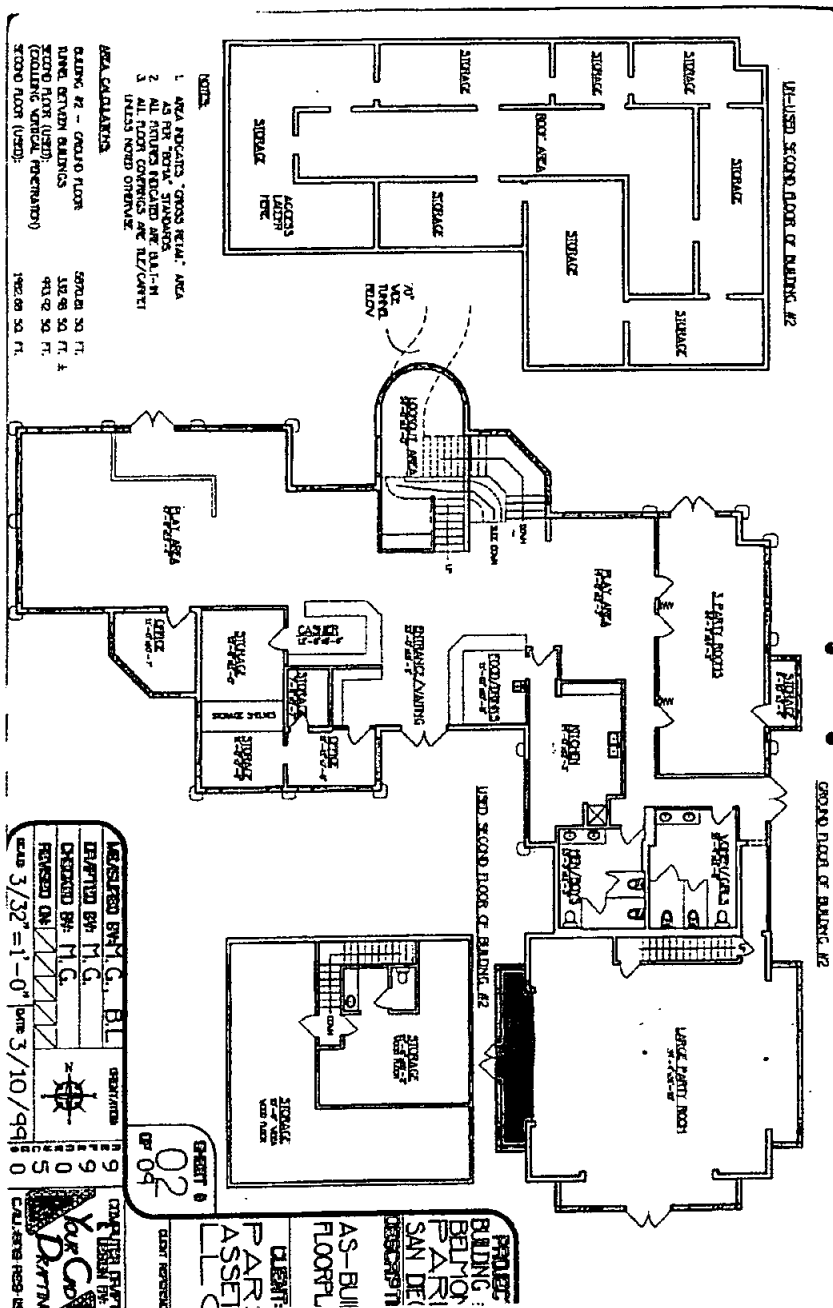
APPROVED as to form and legality this 15th day of March, 2005

Michael J. Aguirre
City Attorney

By [Signature]
Deputy City Attorney

[illegible]

EXHIBIT B



Police Substation Premises



RESOLUTION NUMBER R- 300191

ADOPTED ON MAR 07 2005

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO APPROVING A LICENSE AGREEMENT WITH
WAVEHOUSE SAN DIEGO, LLC, FOR A POLICE
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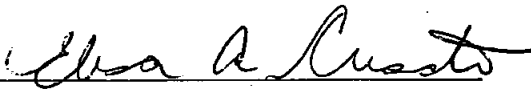
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APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Elisa A. Cusato
Deputy City Attorney

EAC:nda
02/18/05
Or.Dept:READ
R-2005-875
MMS#1325

Passed and adopted by the Council of San Diego on March 07, 2005 by the following vote:

YEAS: **PETERS, ZUCCHET, ATKINS, MAIENSCHIN, FRYE, MADAFFER, INZUNZA, MAYOR MURPHY.**

NAYS: **NONE.**

NOT PRESENT: **YOUNG.**

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: Manuel E. Ketcham, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. **R-300191**, passed and adopted by the Council of The City of San Diego, California on March 07, 2005.

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

(SEAL)

By: Manuel E. Ketcham, Deputy
Manuel E. Ketcham