

OFFICE LEASE AGREEMENT

DUPLICATE ORIGINAL
COPY

Urban Village Commercial, LLC - Landlord
Redevelopment Agency of the City of San Diego - Tenant

This Lease Agreement is dated for reference purposes only, May 27th 2003, by and between Urban Village Commercial, LLC, a California limited liability company, (referred to herein as "Landlord") and Redevelopment Agency of the City of San Diego, a public agency, corporate and politic (referred to herein as "Tenant").

RECITALS

A) Landlord is the fee owner of the real property legally described on Exhibit A attached hereto located at 4305 University Avenue, San Diego, California 92105 (referred to herein as the "Real Property").

B) Landlord wishes to lease to Tenant and Tenant wishes to lease from Landlord, a portion of the first (1st) floor of a building which is part of Real Property (the "Building").

NOW, THEREFORE, in consideration of the mutual covenants herein, the Landlord and Tenant agree as follows:

ARTICLE I

DEFINITIONS, PREMISES, TERM

1.1 Definitions.

- (a) "Base Building Systems" is defined in Section 7.1.2.
- (b) "Base Building" is defined in Section 1.1 of Leasehold Improvement Agreement.
- (c) "Base Rent" is defined in Section 3.2.
- (d) "Building" shall mean the building in which the Premises is located.
- (e) "Estimated Commencement Date" shall mean September 1, 2003.
- (f) "Extension Term" is defined in Section 1.10.
- (g) "Governing Interest Rate" shall mean the prime rate as published in the Wall Street Journal, determined as of the date interest begins to accrue, plus three (3) percentage points.

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- (h) "Initial Term" is defined in Section 1.8.
- (i) "Landlord" shall mean the Landlord named herein and its successors and assigns.
- (j) "Landlord Improvements" shall mean the "Base Building" as defined in Section 1.1 of the Leasehold Improvement Agreement.
- (k) "Laws" shall mean all governmental laws, rules, regulations and ordinances.
- (l) "Lease" shall mean this lease agreement.
- (m) "Lease Date" shall mean the date of the Lease.
- (n) "Lease Year" shall mean every twelve (12) consecutive calendar months during the Term commencing on the Rent Commencement Date; provided, however, if the Rent Commencement Date is not the first day of a calendar month, the first Lease Year shall consist of the twelve (12) full consecutive calendar months following the Rent Commencement Date, plus the period from the Rent Commencement Date to the first day of such twelve (12) calendar month period.
- (o) "Lease Commencement Date" is the date the Lease Term begins as provided in section 1.8.1.
- (p) "Lease Termination Date" shall mean the last day of the "Term" as provided herein or upon earlier termination of this Lease.
- (q) "Leasehold Improvement Agreement" is attached hereto as Exhibit B.
- (r) "Mortgage" shall mean any mortgage, deed to secure debt, trust indenture, or deed of trust which may now or hereafter affect, encumber, or be a lien upon the Premises or Landlord's interest therein; and any renewals, modifications, consolidations replacements, and extensions thereof.
- (s) "Mortgagee" shall mean the holder of any Mortgage, at any time.
- (t) "Person" shall mean and include an individual, corporation, partnership, unincorporated organization or government, or any agency or political subdivision thereof.
- (u) "Premises" shall mean a portion of the Building outlined on the Floor Plan attached hereto as Exhibit E, containing approximately one thousand four hundred forty one (1,441) Rentable Square Feet (one thousand three hundred thirty five (1,335) Usable Square Feet) on the first floor..
- (v) "Real Property is the property legally described on Exhibit A attached hereto of which the Building is a part.
- (w) "Rent" is defined in Section 4.1.

(x) "Rentable Square Feet" is defined in Section 1.7.1.

(y) "Rent Commencement Date" is defined in Section 3.1.

(z) "Rules and Regulations" is defined in Section 2.2.2.

(aa) "Tenant" shall mean the Tenant named herein and its successors and assigns as permitted herein.

(bb) "Tenants Share" is defined in Section 4.2.5.

(cc) "Term" shall mean the Initial Term or the Initial Term as then extended pursuant to Section 1.10 herein.

(dd) "Usable Square Feet" is defined in Section 1.7.1.

1.2 Exhibits.

The following exhibits are attached to and part of this Lease.

- Exhibit A - Legal Description of the Real Property.
- Exhibit B - Leasehold Improvement Agreement.
- Exhibit C - Form of Confirmation of Commencement Date and Rent Commencement Date.
- Exhibit D - Rules and Regulations.
- Exhibit E - Floor Plan.

1.3 Lease of Premises.

1.3.1 Landlord leases to Tenant and Tenant leases from Landlord the Premises, upon the terms and conditions of this Lease.

1.3.2 This Lease of the Premises is subject to (i) all covenants, conditions, restrictions, easements, liens and encumbrances, and other matters of record affecting the Premises, (ii) all future covenants, conditions, restrictions, easements, liens and encumbrances and other matters of record affecting the Premises, provided they do not materially adversely affect Tenant's rights or obligations herein, and (iii) all Laws.

1.4 Appurtenant Rights. Tenant is granted the right at all times during the Lease Term to nonexclusive use of the main lobby of the Building, common corridors and hallways, stairwells, elevators, restrooms, and other public or common areas located on the Real Property. Landlord, however, has the sole discretion to determine the manner in which those public and common areas are maintained and operated, and the use of those areas shall be subject to the Rules and Regulations.

1.5 Landlord's Entry on Premises.

1.5.1 Landlord and its authorized representatives shall have the right to enter the Premises at all reasonable times for any of the following purposes:

- (a) to determine the condition of the Premises and whether Tenant is complying with its obligations under this Lease;
- (b) to do, at its option, any repairs to the Premises where Tenant has failed to do so;
- (c) with prior notice to Tenant to do any repairs to the Premises which Landlord is required to do as provided herein;
- (d) to serve, post, or keep posted any notices required or allowed under the provisions of this Lease;
- (e) with at least twenty four (24) hours prior notice to Tenant to show the Premises to any prospective purchaser or any lender with respect to the Premises or the Real Property; and
- (f) with at least twenty four (24) hours prior notice to Tenant to show the Premises during the last twelve (12) months of the Lease Term to any prospective tenant with respect to the Premises.

1.5.2 Landlord shall conduct its activities on the Premises as allowed in this Section in a manner that will cause the least possible inconvenience, annoyance, or disturbance to Tenant. Landlord shall not review or remove any documents of Tenant and will maintain confidentiality of information inadvertently reviewed. Nothing in this Section shall be deemed to impose any obligation on the part of Landlord to do anything that is allowed by this Section.

1.6 Preparation of Premises: Acceptance. The rights and obligations of the parties regarding the construction of the Premises before the commencement of the Lease Term are stated in the Leasehold Improvement Agreement attached to this Lease as Exhibit B. If this Lease conflicts with the Leasehold Improvement Agreement, the Leasehold Improvement Agreement shall prevail.

1.7 Rentable Area and Usable Area.

1.7.1 Standard of Calculation. For purposes of this Lease: (1) "Rentable Area," and "Usable Area" shall be calculated pursuant to the Standard Method For Measuring Floor Area in Office Buildings (ANSI/BOMA Z65.1, 1996); (2) "Rentable Square Feet" and "Rentable Footage" shall have the same meaning as the term "Rentable Area"; (3) "Usable Square Feet" and "Usable Square Footage" shall have the same meaning as the term "Usable Area."

1.7.2 Verification of Rentable Area of Premises and Building. The Rentable Area of the Premises will be verified by Landlord's architect prior to the Lease Commencement Date. The Rentable Area of the Building is one hundred sixteen thousand eight hundred seventy nine (116,879) square feet. That verification shall be made in accordance with this section 1.7.

Tenant's architect may consult with Landlord's architect regarding that verification. The determination of Landlord's architect, however, shall be conclusive and binding on the parties.

1.7.3 Adjustment of Rent. If Landlord's architect determines that the Rentable Area of the Premises is different from that stated in this Lease, all Rent that is based on that incorrect amount shall be modified in accordance with that determination. If that determination is made, it shall be confirmed in writing by Landlord to Tenant.

1.8 Initial Term.

1.8.1 The "Lease Commencement Date" shall mean the date the "Landlord Improvements" have been substantially completed and Landlord has given written notice of such fact to the Tenant, and Premises are made available to Tenant.

1.8.2 The provisions of this Lease shall be effective as of the date both Landlord and Tenant have signed this Lease. The term of this Lease (the "Initial Term") shall commence on the Lease Commencement Date and terminate one (1) day prior to the tenth (10th) anniversary of the Lease Commencement Date, provided, however, if the Lease Commencement Date is not the first day of a calendar month, the term shall terminate on the last day of the calendar month in which the tenth (10th) anniversary of the Lease Commencement Date occurs.

1.8.3 When the "Lease Commencement Date and the Rent Commencement Date" have been determined, the Landlord and Tenant shall immediately execute a written confirmation of such dates in the form and content as set forth in Exhibit C (Confirmation of Lease Commencement Date and Rent Commencement Date) attached hereto, which at confirmation shall become part of this Lease.

1.9 Intentionally Omitted.

1.10 Option to Extend Lease Term.

1.10.1 Tenant may, at Tenant's option, extend the Initial Term of this Lease for two (2) periods of five (5) years (each such period is referred to as an "Extension Term"), subject to all the provisions of this Lease, except for any further extensions of the Term. The Extension Term shall commence at the expiration of the Initial Term, or the previous Extension Term, as the case may be, and shall terminate on the last day prior to the fifth (5th) anniversary of the date of commencement of the Extension Term, unless sooner terminated as provided herein.

1.10.2 After the exercise of an option to extend, all references in this Lease to the "Term" shall be considered to mean the Term as extended, and all references to termination or to the end shall be considered to mean the termination or end of the Extension Term.

1.10.3 Tenant's right to extend the Initial Term or such Initial Term as previously extended, is subject to:

- (a) the following conditions precedent:

1) This Lease shall be in full force and effect at the time notice of exercise is given and on the last day of the Initial Term or the then current Extension Term, as applicable.

2) Tenant shall not be in default with all periods of time to cure such default having expired as provided in Section 14.1.1 herein: (i) at the time notice of exercise is given; or (ii) on the last day of the Initial Term, or the previous Extension Term as the case may be.

(b) compliance with the following procedure for exercising the option:

1) At least nine (9) months before the last day of the Initial Term or Extension Term, as the case may be (the "Option Period Notice Deadline"), Tenant shall give Landlord written notice irrevocably exercising the option (the "Option Notice").

2) Each party shall, at the request of the other, execute a memorandum acknowledging the fact that the option in question has been exercised.

(c) If Tenant does not give Landlord the Option Notice by the Option Period Notice Deadline, then Tenant shall be deemed to have exercised its option to extend the current Term, subject to the following:

1) Tenant may, at any time after the Option Period Deadline, terminate this Lease by giving Landlord written notice of termination, in which case, this Lease shall terminate nine (9) months after Landlord's receipt of such termination notice.

2) At any time before or after the Option Period Notice Deadline, (but not more than 90 days prior thereto) Landlord may give Tenant written notice advising Tenant of Tenant's right to extend the current Term pursuant to the provisions of this Section 1.10. In the event Tenant does not give Landlord written notice within thirty (30) days after receipt of Landlord's notice, or the Option Period Notice Deadline, whichever is later, affirmatively exercising the option to extend the current Term and waiving Tenant's right to terminate the Lease under paragraph (c) 1) above, then notwithstanding anything in this Lease to the contrary, the Lease shall automatically terminate nine (9) months after the expiration of the aforementioned thirty (30) day period or the Option Period Notice Deadline, whichever is last to occur.

1.10.4 Neither the foregoing option granted to Tenant to extend the Term of this Lease, nor the exercise thereof by Tenant, shall prevent Landlord from exercising any right granted or reserved to Landlord in this Lease or which Landlord may have by virtue of any Law or otherwise, to terminate this Lease, either during the Initial Term or during any Extension Term. Any lawful termination of this Lease shall serve to terminate all Extension Terms, whether or not Tenant shall have exercised same. Any right on the part of Landlord to terminate this Lease shall continue during the Extension Term, and the foregoing option granted to Tenant to extend the Term shall not be deemed to give Tenant any further option to extend the Term.

1.11 Tenant Parking.

1.11.1 Number of Parking Spaces. Tenant shall rent from Landlord on a monthly basis throughout the Term four (4) parking space. Tenant shall receive monthly parking passes for each such parking space. Tenant's parking passes shall give Tenant the right to park in spaces located in the parking structure on the Real Property. Tenant shall not be entitled to any reserved parking space.

1.11.2 Changes in Location, Layout and Service. Landlord reserves the right to change the location, size, configuration, design, layout and all other aspects of the parking facility. Landlord may temporarily close off or restrict access to the parking facility from time to time to facilitate construction, alteration, or improvements, without incurring any liability to Tenant and without any abatement of Rent. If reasonably possible without Landlord incurring additional costs (unless Tenant agrees to pay such additional cost), any such closure and the associated work shall occur during other than Building Hours. If any holder of a parking pass is unable during Building Hours to park in the parking facility due to such work, then Landlord will either provide alternative parking or refund a proportionate portion of the monthly parking charge.

1.11.3 Parking Rates. The initial parking charge for parking passes shall be Fifty Dollars (\$50.00) per month, per parking pass, payable in advance of the first day of each calendar month, beginning on the Rent Commencement Date. The parking charge shall include all taxes and other charges imposed after the effective date of this Lease by any government authority in connection with the renting of parking spaces or the use of the parking facility by the Tenant. In addition, the parking charges shall be increased on the first day of each Lease Year in an amount of two percent (2%) of the monthly parking charge for the previous Lease Year.

1.11.4 Parking Rules and Regulations. Tenant's continued right to use the parking passes is conditioned on Tenant's abiding by all rules and regulations prescribed from time to time for the orderly operation and use of the parking facility. Tenant shall use all reasonable efforts to ensure that Tenant's employees also comply with such rules and regulations.

1.11.5 Nontransferable Passes. The parking passes rented by Tenant are provided to Tenant solely for use by Tenant's personnel (not including Tenant's invitees and guests). These passes may not be transferred, assigned, subleased, or otherwise alienated by Tenant without Landlord's prior approval.

1.11.6 Visitor Validation Privileges. Landlord may require parking operators to provide Tenant with procedures for Tenant to give visitor validation privileges to its business invitees at standard visitor rates charged by parking operators.

1.12 Tenants Right To Terminate Lease.

In the event that for any fiscal real estate tax year (July 1 - June 30) during the Term, the sum of (i) real estate tax increment attributable to the Real Property which the Redevelopment Agency of the City of San Diego (the "Agency") is entitled to receive, plus (ii)

ARTICLE 3

BASE RENT

3.1 Rent Commencement Date.

Tenant shall commence paying Base Rent, on the Lease Commencement Date (the "Rent Commencement Date").

3.2 Base Rent.

Tenant shall pay to Landlord monthly Base Rent during the first Lease Year, beginning on the Rent Commencement Date in the amount of One and 85/100 Dollars (\$1.85) per square foot of Rentable Area of the Premises. The Base Rent shall be increased on the first day of each subsequent Lease Year in the amount of three percent (3%) of the monthly Base Rent for the previous Lease Year.

3.3 Monthly Installments.

The monthly Base Rent for each Lease Year shall be paid in advance on the Rent Commencement Date and on the first day of each calendar month thereafter (referred to herein as "Monthly Rent"). If the first Lease Year is longer than twelve (12) calendar months, the annual Base Rent for the first Lease Year shall consist of the annual Base Rent for twelve (12) calendar months, plus a pro-rated daily amount for the period from the Rent Commencement Date until the last day of the calendar month in which the Rent Commencement Date occurs. If the last day of the Term is other than the last day of a calendar month, then the Base Rent for such short month shall be pro-rated on a daily basis based upon a thirty (30) day month.

3.4 Place for Payment of Rent.

All payments of Rent shall be made to Landlord at:

Suite 520
7979 Ivanhoe Avenue
La Jolla, California 92037

or such other address designated in writing by Landlord.

ARTICLE 4

ADDITIONAL RENT

4.1 Additional Rent; Rent. In addition to paying the Base Rent specified in Article 3, Tenant shall pay as additional rent Tenant's Share of the annual Direct Expenses (as defined in subsection 4.2.1). That additional rent, together with other amounts of any kind (other than Base Rent) payable by Tenant to Landlord under the terms of this Lease, shall be collectively referred to in this Lease as "Additional Rent." Base Rent and Additional Rent are collectively referred to in this Lease as "Rent." All amounts due under this Article 4 as Additional Rent are

any "In Lieu Payments" (as defined in section 4.2.4.2(e)) if any, required to be paid by the Landlord to the Agency for such real estate tax year, is less than the Base Rent due from the Tenant during such real estate tax year, then the Tenant may at its option terminate this Lease by giving Landlord written notice of termination (the "Termination Notice") no later than thirty (30) days after Landlord gives Tenant a copy of the real estate tax bill for such real estate tax year. Tenant must state the date the lease terminates in the Termination Notice which must be no less than thirty (30) days and no more than one-hundred eighty (180) days after the date the Termination Notice is received by the Landlord.

ARTICLE 2

USE AND OPERATION OF PREMISES

2.1 Use of Premises.

Tenant may use the Premises for office space and no other purpose whatsoever. Under no circumstances may the Premises be used for a bank, savings and loan, or a credit union.

2.2 Tenant Duties and Prohibited Conduct.

2.2.1 Tenant shall not:

(a) use or permit the Premises to be used in any manner that would constitute waste or a public or private nuisance.

(b) use or permit the Premises to be used in any manner that would cause a cancellation of any insurance covering the Premises or the Building. If the rate of insurance carried by Landlord is increased as a result of the use of the Premises, Tenant shall pay to Landlord within thirty (30) days before the date Landlord is obligated to pay a premium or the insurance, or within ten (10) days after Landlord delivers to Tenant a certified statement for Landlord's insurance carrier stating that the rate increase was caused solely by an activity of the Tenant in the Premises, whichever date is later, a sum equal to the difference between the original premium and the increased premium.

2.2.2 Tenant shall:

(a) comply with the "Rules and Regulations," attached hereto as Exhibit D. Landlord shall have the right from time to time to amend Rules and Regulations for the safety, care, and cleanliness of the Building. Tenant shall comply with the Rules and Regulations including any amendments thereto. If there is a conflict between any Rules and Regulations and any provision of this Lease, the provision of this Lease shall control.

(b) comply with all Laws concerning the Premises and the use thereof.

payable for the same period and in the same manner, time, and place as the Base Rent. Without limitation on other obligations of Tenant that survive the expiration of the Lease Term, Tenant's obligations to pay the Additional Rent during the term provided for in this Article 4 survive the expiration of the Lease Term. Landlord shall provide Tenant a final reconciliation and invoice for any unpaid Rent within forty five (45) days of the expiration of the Lease Term.

Notwithstanding the aforementioned the amount of Direct Expenses that Tenant is required to pay for each Expense Year shall not exceed the "Cap Amount". The Cap Amount for the initial Expense Year shall be Seven and 20/100 Dollars (\$7.20) per Rentable Square Foot of the Premises. The Cap Amount shall increase on the first day of each Expense Year, after the initial Expense Year by an amount equal to five percent (5%) of the Cap Amount for the previous Expense Year.

4.2 Definitions. The following definitions apply in this Article 4:

4.2.1 Direct Expenses. "Direct Expenses" mean Operating Expenses plus Tax Expenses.

4.2.2 Expense Year. "Expense Year" means each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires.

4.2.3 Operating Expenses. "Operating Expenses" means all direct expenses, costs, and amounts of every kind that Landlord pays or incurs during any Expense Year because of or in connection with the ownership, operation, management, maintenance, repair, replacement, or restoration of the Real Property.

4.2.3.1 Examples of Operating Expenses. The definition of "Operating Expenses" includes (but is not limited to) any amounts paid or incurred for:

- (a) The cost of supplying any utilities.
- (b) The direct cost of operating, managing, maintaining, and repairing the Real Property, including, but not limited to the following systems: utility, mechanical, sanitary, storm drainage, escalator, and elevator.
- (c) The cost of supplies and tools and of equipment, maintenance, and service contracts in connection with those systems.
- (d) The cost of licenses, certificates, permits, and inspections.
- (e) The cost of contesting the validity or applicability of any government enactments that may affect the Operating Expenses.
- (f) The costs incurred in connection with the implementation and operation of a transportation system management program, mandated by any governmental authority.

(g) The cost of insurance carried by Landlord, in amounts reasonably determined by Landlord.

(h) Fees, charges, and other costs including property management fees (or amounts in lieu of such fees), consulting fees, and accounting fees of all persons engaged by Landlord or otherwise reasonably incurred by Landlord in connection with the operation, management, maintenance, and repair of the Real Property.

(i) The cost of parking area maintenance, and repair, including resurfacing, restriping, and cleaning.

(j) Wages, salaries, and other compensation and benefits of all persons engaged in the operation, maintenance, or security of the Building plus employer's Social Security taxes, unemployment taxes, insurance, and any other taxes imposed on Landlord that may be levied on those wages, salaries, and other compensation and benefits. If any of Landlord's employees provide services for more than one building of Landlord, only the prorated portion of those employees' wages, salaries, other compensation and benefits, and taxes reflecting the percentage of their working time devoted to the Real Property shall be included in Operating Expenses.

(k) Payments under any easement, license, operating agreement, declaration, restrictive covenant, or instrument relating to the sharing of costs by the Building.

(l) The cost of capital improvements or other costs incurred in connection with the Real Property that (1) are intended as a labor-saving device or to effect other economies in the maintenance or operation of all or part of the Real Property or (2) are required under any government law or regulation but that were not required in connection with the Real Property when permits for the construction of the Building were obtained. All permitted capital expenditures shall be amortized (including interest on the unamortized cost at the rate of the Governing Interest Rate) over their useful life, as reasonably determined by Landlord.

4.2.3.2 Adjustment of Operating Expenses. Operating Expenses shall be adjusted as follows:

4.2.3.2.1 Gross-Up Adjustment When Building is Less Than Fully Occupied. If the occupancy of the Building during any part of any Expense Year (including the Base Year) is less than one-hundred percent (100%), Landlord shall make an appropriate adjustment of the variable components of Operating Expenses for that Expense Year, as reasonably determined by Landlord using sound accounting and management principles, to determine the amount of Operating Expenses that would have been incurred had the Building been one-hundred percent (100%) occupied. This amount shall be considered to have been the amount of Operating Expenses for that Expense Year. For purposes of this subsection 4.2.3.2.1, "variable components" include only those component expenses that are affected by variations in occupancy levels. This section shall not apply to fixed expenses, including, but not limited to such items as real estate taxes.

4.2.3.2.2 Adjustment When Landlord Does Not Furnish a Service to All Tenants. If, during any part of any Expense Year, Landlord is not furnishing a particular service or work (the cost of which, if furnished by Landlord, would be included in Operating

Expenses) to a tenant (other than Tenant) that has undertaken to perform such service or work in lieu of receiving it from Landlord, Operating Expenses for that Expense Year shall be considered to be increased by an amount equal to the additional Operating Expenses that Landlord would reasonably have incurred during this period if Landlord had furnished such service or work to that tenant.

4.2.3.3 Exclusions From Operating Expenses. Despite any other provision of subsection 4.2.3, Operating Expenses shall not include:

(a) Depreciation, Interest, or amortization on mortgages or ground lease payments, except as otherwise stated in this section 4.2.

(b) Legal fees incurred in negotiating and enforcing tenant leases.

(c) Real estate brokers' leasing commissions.

(d) Initial improvements or alterations to tenant spaces.

(e) the cost of providing any service directly to and paid directly by any tenant.

(f) Any costs expressly excluded from Operating Expenses elsewhere in this Lease.

(g) Costs of any items for which Landlord receives reimbursement from insurance proceeds or a third party. Insurance proceeds shall be excluded from Operating Expenses in the year in which they are received, except that any deductible amount under any insurance policy shall be included within Operating Expenses.

4.2.4 Tax Expenses. "Tax Expenses" means all federal, state, county, or local government or municipal taxes, fees, charges, or other impositions of every kind (whether general, special, ordinary, or extraordinary) that are paid or incurred by Landlord during any Expense Year (without regard to any different fiscal year used by any government or municipal authority) because of or in connection with the ownership, leasing, and operation of the Real Property. These expenses include taxes, fees, and charges such as real property taxes, general and special assessments, transit taxes, leasehold taxes, and taxes based on the receipt of rent (including gross receipts or sales taxes applicable to the receipt of rent, unless required to be paid by Tenant); personal property taxes imposed on the fixtures, machinery, equipment, apparatus, systems, and equipment; appurtenances; furniture; and other personal property used in connection with the Building, but excluding personal property taxes on property owned by Tenant or other tenants of the Building, subject, however, to Section 4.5.

4.2.4.1 Adjustment of Taxes. For purposes of this Lease, Tax Expenses shall be calculated as if the tenant improvements in the Building were fully constructed and the Real Property, the Building, and all tenant improvements in the Building were fully assessed for real estate tax purposes. Landlord specifically agrees that the gross-receipts component of Tax Expenses for the Base Year and each subsequent year shall be calculated as if the Building were one-hundred percent (100%) occupied with rent-paying

tenants. Accordingly, during the portion of any Expense Year, Tax Expenses shall be considered to be increased appropriately.

4.2.4.2 Included Tax Expenses. Tax Expenses shall include:

(a) Any assessment tax, fee, levy, or charge in addition to, or in partial or total substitution of, any assessment, tax, fee, levy, or charge previously included within the definition of "real property tax." Tenant and Landlord acknowledge that Proposition 13 was adopted by the voters of the State of California in June 1978 and that assessments, taxes, fees, levies, and charges may be imposed by government agencies for services such as fire protection; street, sidewalk, and road maintenance; conservation; refuse removal; and other government services formerly provided without charge to property owners or occupants. In further recognition of the decrease in the level and quality of government services and amenities as a result of Proposition 13 (or as a result of any other restriction on real property taxes whether by law or by choice of the applicable legislative or assessing body), Tax Expenses shall also include any government or private assessments (or the Building's contribution toward a government or private cost-sharing agreement) for the purpose of augmenting or improving the quality of services and amenities normally provided by government agencies. Tenant and Landlord intend that all new and increased assessments, taxes, fees, levies, and charges and all similar assessments, taxes, fees, levies, and charges be included within the definition of "Tax Expenses" for purposes of this Lease.

(b) Any assessment, tax, fee, levy, or charge allocable to, or measured by, the area of the Premises or the rent payable under this Lease, including any gross income tax with respect to the receipt of that rent, or on or relating to the possession, leasing, operating, management, maintenance, alteration, repair, use, or occupancy by Tenant of the Premises or any portion of the Premises.

(c) Any assessment, tax, fee, levy, or charge on this transaction or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises.

(d) Any possessory taxes charged or levied in place of real property taxes.

(e) Any payments made in lieu of real property taxes ("In Lieu Payments") based upon any agreement entered into between the Landlord and the Redevelopment Agency of the City of San Diego, the City of San Diego or any other governmental agency.

4.2.4.3 Contest Costs; Refunds. Any expenses incurred by Landlord in attempting to protest, reduce, or minimize Tax Expenses shall be included in Tax Expenses in the Expense Year in which those expenses are paid. Tax refunds shall be deducted from Tax Expenses. Such tax refunds shall be deducted from Tax Expenses in the Expense Year in which they are received by Landlord.

4.2.4.4 Excluded Taxes. Despite any other provision of subsection 4.2.4 (except as provided in subsection 4.2.4.2 or levied entirely or partially in lieu of Tax Expenses), the following shall be excluded from Tax Expenses:

(a) All excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes applied or measured by Landlord's general or net income (as opposed to rents, receipts, or income attributable to operations of the Building);

(b) Any items included as Operating Expenses; and

(c) Any items paid by Tenant under section 4.5.

4.2.5 Tenant's Share. "Tenant's Share" means one and 23/100 percent (1.23%). Tenant's Share is calculated by dividing the Rentable Square Feet of the Premises by the total Rentable Square Feet of the Building (including the Premises). If the Premises is expanded or reduced, Tenant's Share shall be appropriately adjusted. Tenant's Share for the Expense Year in which that change occurs shall be determined on the basis of the number of days during the Expense Year in which each such Tenant's Share was in effect.

4.3 Calculation and Payment of Additional Rent. Tenant's Share of any Direct Expenses for any Expense Year shall be calculated and paid as provided in this section 4.3. Tenant shall be billed for Direct Expenses as set forth in Section 4.3.3. In no event shall Tenant pay more than Tenant's share of actual Direct Expenses for any given year as provided in Section 4.3.1 and 4.3.2.

4.3.1 Calculation of Excess. Tenant shall pay as Additional Rent to Landlord an amount equal to Tenant's Share of Direct Expenses, in the manner stated in subsection 4.3.2.

4.3.2 Statement of Actual Direct Expenses and Payment by Tenant. Landlord shall endeavor to give to Tenant on or before the first day of April following the end of each Expense Year a statement (Statement) stating the Direct Expenses incurred or accrued for that preceding Expense Year. On receipt of the Statement for each Expense Year ending during the Lease Term, Tenant shall pay, on or before July 15 following the end of each Expense Year, the full amount of Tenant's Share of Direct Expenses, less the amounts (if any) paid during that Expense Year as Estimated Expense (as defined in subsection 4.3.3). If the Estimated Expense paid by the Tenant exceeds the actual amount of Tenant's Share of Direct Expenses, Landlord shall refund such excess to Tenant. Landlord's failure to furnish the Statement for any Expense Year in a timely manner shall not prejudice Landlord from enforcing its rights under this Article 4. Even if the Lease Term has expired and Tenant has vacated the Premises, Tenant shall immediately pay to Landlord the amount calculated under subsection 4.3.3. The provisions of this subsection 4.3.2 shall survive the expiration or earlier termination of the Lease Term.

4.3.3 Statement of Estimated Direct Expenses. Landlord shall give Tenant a yearly expense estimate statement ("Estimate Statement") stating:

(a) Landlord's reasonable estimate of the total amount of Direct Expenses for the then-current Expense Year ("Estimated Expense");

(b) Landlord's failure to furnish the Estimate Statement for any Expense Year in a timely manner shall not preclude Landlord from enforcing its rights to collect any

Estimated Expense under this Article 4. If an Estimated Expense is calculated for the then-current Expense Year, Tenant shall pay, with its next installment of Base Rent due, a fraction of that Estimated Expense for the then-current Expense Year (reduced by any amounts paid as provided in the last section of this subsection 4.3.3). The numerator of that fraction shall be the number of months that have elapsed in that current Expense Year (including the month of the payment), and the denominator shall be twelve (12). Until a new Estimate Statement is furnished, Tenant shall pay monthly, along with the monthly Base Rent installments, an amount equal to one twelfth ($1/12^{\text{th}}$) of the total Estimated Expense stated in the previous Estimate Statement delivered by Landlord to Tenant.

4.4 Intentionally Omitted.

4.5 Taxes and Other Charges for Which Tenant is Directly Responsible. Tenant Shall reimburse Landlord, on demand, as Additional Rent, for any taxes required to be paid by Landlord that are not already included in Tax Expenses, excluding state, local, and federal personal or corporate income taxes measured by the net income of Landlord from all sources and estate and inheritance taxes, regardless of whether such taxes are now customary or within the contemplation of the parties to this Lease, when those taxes are:

(a) Measured by or reasonably attributed to:

(1) The cost or value of Tenant's equipment, furniture, fixtures, and other personal property located in the Premises; or

(2) The cost or value of any leasehold improvements made in or to the Premises by or for Tenant (to the extent that the cost or value of those leasehold improvements exceeds the cost or value of a building-standard build-out, as determined by Landlord, regardless of whether title to those improvements is vested in Tenant or Landlord);

(b) Assessed on or related to the possession, leasing, operation, management, maintenance, alteration, repair, use, or occupancy by Tenant of:

(1) The Premises;

(2) Any portion of the Real Property; or

(3) The parking facility used by Tenant in connection with this Lease; or

(c) Assessed either on this transaction or on any document to which Tenant is a party that creates or transfers an interest or an estate in the Premises.

4.6 Landlord's Books and Records. If Tenant disputes the amount of Additional Rent stated in the Statement, Tenant may designate, within thirty (30) days after receipt of that Statement the City of San Diego Auditor and an independent certified public accountant to inspect Landlord's records. The accountant must be a member of a nationally recognized accounting firm and must not charge a fee based on the amount of Additional Rent that the accountant is able to save Tenant by the inspection. Tenant must give reasonable notice to Landlord of the request for inspection, and the inspection must be conducted in Landlord's

4.7 Tenant's Audit of Operating Expenses. On Tenant's written request given not more than six (6) months after Tenant's receipt of a Statement for a particular Expense Year, Landlord shall provide Tenant with a statement (the "Accountant's Statement") of the Direct Expenses for that Expense Year, and Landlord shall furnish Tenant with such reasonable supporting documentation in connection with the Direct Expenses as Tenant may reasonable request.

Landlord shall provide this information and the Accountant's Statement to Tenant within thirty (30) days after Tenant's written request for it. The Accountant's Statement shall contain sufficient detail to enable Tenant to verify that, in computing the Direct Expenses payable by Tenant, Landlord has adhered to the terms of exclusions and inclusions for Direct Expenses, as set forth in this Lease.

As soon as possible depending on the City of San Diego Auditor's and Tenant's independent certified public accountant's workloads, but in no case more than six (6) months following Tenant's receipt of the Accountant's Statement, Tenant and Landlord shall concurrently be provided with any audit report prepared for Tenant in connection with Tenant's review of the Direct Expenses, and Tenant shall advise Landlord if Tenant disputes the Direct Expenses and/or Tenant's share of them as set forth in the Statement for the applicable calendar year. Thereafter, if Landlord determines that an error has been made, Tenant's sole remedy shall be for the parties to make such appropriate payments or reimbursements, as the case may be (including interest on any such amount at the Governing Interest Rate.) to each other as are determined to be owing, provided that any reimbursements payable by Landlord to Tenant may, at Landlord's option, instead be credited against the Base Rent next coming due under this Lease unless the Lease Term has expired, in which event Landlord shall refund the appropriate amount to Tenant.

Tenant shall keep any information gained from its review of Landlord's records confidential and shall not disclose it to any other party, except as required by law. If requested by Landlord, Tenant shall require its employees or agents reviewing Landlord's records to sign a confidentiality agreement as a condition of Landlord providing the Accountant's Statement to Tenant.

ARTICLE 5

UTILITIES AND SERVICES

5.1 Standard Tenant Utilities and Services. Subject to applicable government rules, regulations, and guidelines and the rules or actions of the public utility furnishing the service, Landlord shall provide the following utilities and services on all days during the Lease Term, unless otherwise stated in the Lease:

5.1.1 Heating and Air-Conditioning. Landlord shall provide heating and air-conditioning when necessary for normal comfort for Tenant's use in the Premises, as reasonably determined by Landlord, Mondays through Fridays 8:00 A.M. – 6:00 P.M. and Saturdays 9:00 A.M. – 1:00 P.M. ("Building Hours") or such shorter periods as may be prescribed by any applicable policies or regulations adopted by any utility or governmental agency, except for the

A.M. – 1:00 P.M. ("Building Hours") or such shorter periods as may be prescribed by any applicable policies or regulations adopted by any utility or governmental agency, except for the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and other locally or nationally recognized holidays (Holidays).

5.1.2 Electricity. Landlord shall provide electricity for lighting and power in the Premises if:

(a) The connected electrical load for lighting does not exceed an average of one (1) watt per Usable Square Foot of the Premises during the Building Hours on a monthly basis; and

(b) The connected electrical load for all other power purposes does not exceed an average of two (2) watts per Usable Square Foot of the Premises during the Building Hours on a monthly basis.

Electricity for Tenant's lighting and other power purposes shall be at a nominal one-hundred and twenty (120) volts. No electrical circuit for the supply of power shall require a current capacity exceeding twenty (20) amperes. If the Tenant requires greater electricity capacity, then the Tenant must pay the cost for all equipment, facilities and installation charges necessary to create such greater capacity. Landlord shall replace lamps, starters, and ballasts for Building standard lighting fixtures within the Premises on Tenant's request and at Tenant's expense. Tenant shall replace lamps, starters, and ballasts for non-Building standard lighting fixtures within the Premises at Tenant's expense.

Tenant shall pay as Additional Rent, its share of the cost of electricity provided to the Premises if the electricity is provided through a meter that is not billed directly to Tenant. Tenant's share shall be a fraction the numerator of which is the Rentable Square Footage of the Premises and the denominator is the Rentable Square Footage of all space served by the meter. If Landlord provides a separate electric meter for the Premises, the Tenant shall pay all electricity charges pursuant to such meter plus Tenant's Share of electricity consumed within the common areas of the Real Property.

5.1.3 Water. Landlord shall provide city water from the regular Building outlets for drinking, lavatory, toilet purposes and kitchens.

5.1.4 Janitorial Services. Landlord shall provide, as an Operating Expense, janitorial services in and about the Premises five (5) days per week.

5.2 Overstandard Tenant Use. Tenant shall not, without Landlord's prior written consent, use heat-generating machines, machines other than normal fractional horsepower offices machines, or equipment or lighting other than building standard lights in the Premises that may affect the temperature otherwise maintained by the air-conditioning system or increase the water normally furnished to the Premises by Landlord under section 5.1.

If such consent is given, Landlord shall have the right to install supplementary air-conditioning units or other facilities in the Premises, including supplementary or additional

metering devices. On billing by Landlord, Tenant shall pay the cost for such supplementary facilities, including the cost of (a) installation, operation, and maintenance; (b) increased wear and tear on existing equipment; and (c) other similar charges.

If Tenant uses water, electricity, heat, or air-conditioning in excess of that required to be supplied by Landlord under section 5.1, Tenant shall pay to Landlord, on billing, the cost of (a) the excess service; (b) installation, operation, and maintenance of equipment installed to supply the excess service; and (c) increased wear and tear on existing equipment caused by Tenant's excess consumption; Landlord may install devices to separately meter any increased use. On demand, Tenant shall pay the increased cost directly to Landlord, including the cost of the additional metering devices.

Tenant's use of electricity shall never exceed the capacity of the feeders serving the Building and Premises or the risers of wiring installation. If Tenant wishes to use heat, ventilation, or air-conditioning during hours other than those for which Landlord is obligated to supply such utilities under section 5.1, Tenant shall give Landlord such prior notice as Landlord shall from time to time establish as appropriate, and Landlord, at its sole option, shall supply such utilities to Tenant at an hourly cost to Tenant as Landlord shall from time to time establish. Amounts payable by Tenant to Landlord under this section 5.2 for use of additional utilities shall be considered Additional Rent under this Lease and shall be billed on a monthly basis.

5.3 Interruption of Utilities. Tenant agrees that Landlord shall not be liable for damages, by abatement of Rent or otherwise for failure to furnish or delay in furnishing any service (including telephone and telecommunication services) or for diminution in the quality or quantity of any service when the failure, delay, or diminution is entirely or partially caused by:

- (a) Breakage, repairs, replacements, or improvements;
- (b) Strike, lockout, or other labor trouble;
- (c) Inability to secure electricity, gas, water, or other fuel at the Building after reasonable effort to do so;
- (d) Accident or casualty;
- (e) Act or default of Tenant or other parties; or
- (f) Any other cause beyond Landlord's reasonable control.

Such failure, delay, or diminution shall not be considered to constitute an eviction or a disturbance of Tenant's use and possession of the Premises or relieve Tenant from paying Rent or performing any of its obligations under this Lease.

Landlord shall not be liable under any circumstances for a loss of or injury to property or for injury to or interference with Tenant's business, including loss of profits through, in connection with, or incidental to a failure to furnish any of the utilities or services under this Article 5. Landlord may comply with mandatory or voluntary controls or guidelines promulgated by any government entity relating to the use or conservation of energy, water, gas, light, or electricity or the reduction of automobile or other emissions without creating any liability of Landlord to Tenant under this

Lease as long as compliance with voluntary controls or guidelines does not materially and unreasonably interfere with Tenant's use of the Premises.

5.4 Utility Providers. Landlord may, in Landlord's sole and absolute discretion, at any time and from time to time, contract, or require Tenant to contract, for utility services (including generation, transmission, or delivery of the utility service) with a utility service provider(s) of Landlord's choosing. Tenant shall fully cooperate with Landlord and any utility service provider selected by Landlord. Upon reasonable notice, Tenant shall permit Landlord and the utility service provider to have reasonable access to the Premises and the utility equipment serving the Premises, including lines, feeders, risers, wiring, pipes, and meters. Under no circumstances shall Landlord be responsible or liable for any loss, damage, or expense that Tenant may incur as a result of any change of utility service, including any change that makes the utility supplied less suitable for Tenant's needs, or for any failure, interference or defect in utility service. No such change, failure, interference, or defect shall constitute an actual or constructive eviction of Tenant, or entitle Tenant to any abatement of Rent, or relieve Tenant from any of Tenant's obligations under this Lease.

ARTICLE 6

MAINTENANCE AND REPAIRS

6.1 Landlord's Repair and Maintenance Obligations. Landlord shall, as part of the Operating Expenses, repair and maintain in good order and condition (reasonable wear and tear excepted):

- (a) The structural portions of the Premises;
- (b) The Base Building;
- (c) The Base Building Systems located outside the Premises;
- (d) The exterior portions of the Building and Real Property; and
- (e) All other common areas located in the Building, or in or on the Real Property, including the parking facilities serving the Building.

Repairs shall be made promptly when appropriate to keep the applicable portion of the Premises, Building, Real Property, and other items in the conditions described in this clause. Landlord shall not be in default of its repair and maintenance obligations under this section 6.1 if Landlord performs the repairs and maintenance within thirty (30) days after written notice by Tenant to Landlord of the need for such repairs and maintenance. If, due to the nature of the particular repair or maintenance obligation, more than thirty (30) days are reasonably required to complete it, Landlord shall not be in default under this section 6.1 if Landlord begins work within this thirty-day (30-day) period and diligently prosecutes this work to completion. No abatement of rent and no liability of landlord shall result for any injury to or interference with tenant's business arising from the making of or failure to make any repairs, replacements, alterations, or improvements in or to any portion of the Premises, Building, Real Property, fixtures, appurtenances, or equipment. Tenant waives and releases its rights, including its right

to make repairs at Landlord's expense, under California Civil Code sections 1941-1942 or any similar law, statute, or ordinance now or hereafter in effect.

6.2 Tenant's Repairs and Maintenance. Throughout the Term, Tenant, at its sole cost and expense, shall maintain the Premises and keep same in good order and condition, and make all necessary Repairs thereto, except for Landlord's obligations in Section 6.1. All Repairs made by Tenant shall be equal in quality and class to the original work.

ARTICLE 7

ALTERATIONS AND ADDITIONS

7.1 Landlord's Consent to Alterations. Tenant may not make any improvements, alterations, additions, or changes to the Premises (Alterations) without first obtaining Landlord's prior written consent.

7.1.1 Consent Procedure; Conditions. Tenant shall request such consent by written notice to Landlord, which must be accompanied by detailed and complete plans and specifications for the proposed work. As a condition of its consent to Alterations, Landlord may impose any requirements that Landlord considers desirable, including a requirement that Tenant provide Landlord with financial assurance that the cost of the Alterations will be paid when due.

7.1.2 Reasonable Consent. Landlord shall not unreasonably withhold or delay its consent to proposed Alterations. The Alterations for which Landlord may reasonably withhold or delay consent include those that would or could:

(a) Affect the structure of the Building or any portion of the Building other than the interior of the Premises;

(b) Affect the Base Building Systems (as defined below) of the Premises or Building;

(c) Result in Landlord's being required under Laws to perform any work that Landlord could otherwise avoid or defer (Additional Required Work);

(d) Result in an increase in the demand for utilities or services that Landlord is required to provide; or

(e) Cause an increase in the premiums for hazard or liability insurance carried by Landlord.

"Base Building Systems" means all systems and equipment (including plumbing; heating, ventilation, and air-conditioning; electrical; fire/life-safety; elevator; and security systems) that serve all or part of the Building.

7.1.3 Intentionally Omitted.

7.2 Compliance of Alterations With Laws and Insurance Requirements. Tenant shall cause all Alterations to comply with the following:

- (a) Applicable Laws;
- (b) Applicable requirements of a fire-rating bureau; and
- (c) Applicable requirements of Landlord's hazard insurance carrier to the extent that Tenant is informed of them.

Tenant shall also comply with those requirements in the course of constructing the Alterations. Before beginning construction of any Alteration, Tenant shall obtain a valid building permit, if needed, and any other permits required by any government entity having jurisdiction over the Premises. Tenant shall provide copies of those permits to Landlord before the work begins.

Tenant shall, at Tenant's sole expense, perform any Additional Required Work in the Premises, which shall be subject to the same requirements as any Alteration. If any Additional Required Work must be performed outside the Premises, Landlord may elect to perform that work at Tenant's expense, in which case, Landlord's consent to any Alterations shall be subject to Landlord's and Tenant's prior written approval of the scope and costs of the Additional Required Work to be performed outside the Premises. No consent by Landlord to any proposed work shall constitute a waiver of Tenant's obligations under this section 7.2

7.3 Manner of Construction. Tenant shall build Alterations entirely within the Premises and in conformance with Landlord's construction rules and regulations, using contractors and subcontractors approved in writing by Landlord and mutually acceptable to Tenant. All work relating to any Alterations shall be done in a good and workmanlike manner, using new materials equivalent in quality to those used in the construction of the initial improvements to the Premises. All work shall be diligently prosecuted to completion.

Tenant shall ensure that all work is performed in a manner that does not obstruct access to or through the Building or its common areas and that does not interfere either with other tenants' use of their premises or with any other work being undertaken in the Building. Tenant shall take all measures necessary to ensure that labor peace is maintained at all times.

Within twenty (20) days after completion of any Alterations, Tenant shall deliver to Landlord a reproducible copy of the drawings of Alterations as built if drawings were needed.

7.4 Payment for Alterations. Tenant shall promptly pay all charges and costs incurred in connection with any Alteration, as and when required by the terms of any agreements with contractors, designers, or suppliers. At least seven (7) days before beginning construction of any Alteration, Tenant shall give Landlord written notice of the expected commencement date of that construction to permit Landlord to post and record a notice of nonresponsibility.

On completion of any Alteration, Tenant shall:

(a) Cause a timely notice of completion to be recorded in the office of the recorder of the county in which the Building is located, in accordance with Civil Code section 3093 or any successor statute;

(b) Deliver to Landlord evidence of full payment and unconditional final waivers of all liens for labor, services, or materials; and

(c) Pay to Landlord an amount equal to three percent (3%) of the costs of constructing the Alteration to compensate Landlord for all overhead, costs, and expenses arising from Landlord's involvement with that work.

7.5 Construction Insurance. Before construction begins, Tenant shall deliver to Landlord reasonable evidence that damage to, or construction of, the Alterations during construction will be covered either by the policies that Tenant is required to carry under this Lease or by a policy of builder's all-risk insurance in an amount approved by Landlord.

Tenant shall cause each contractor and subcontractor to maintain all workers' compensation insurance required by law and liability insurance (including property damage) in amounts reasonably required by Landlord. Tenant shall provide evidence of that insurance to Landlord before construction begins.

7.6 Ownership of Alterations. All Alterations that may be installed or placed in or about the Premises from time to time shall be and become the property of Landlord on installation. Tenant may remove any trade fixtures and equipment or freestanding kitchen or office equipment that Tenant can substantiate to Landlord has not been paid for with any tenant improvement allowance funds provided to Tenant by Landlord. Tenant must repair any damage to the Premises and Building caused by that removal.

7.7 Initial Improvements. The construction of the initial improvements to the Premises shall be governed by the terms of the Leasehold Improvement Agreement, and not the terms of this Article 7.

7.8 Covenant Against Liens. Tenant shall not be the cause or object of any liens or allow such liens to exist, attach to, be placed on, or encumber Landlord's or Tenant's interest in the Premises, Building, or Real Property by operation of law or otherwise. Tenant shall not suffer or permit any lien of mechanics, material suppliers, or others to be placed against the Premises, Building, or Real Property with respect to work for services performed or claimed to have been performed for Tenant or materials furnished or claimed to have been furnished to Tenant or the Premises. Landlord has the right at all times to post and keep posted on the Premises any notice that it considers necessary for protection from such liens. At least seven (7) days before beginning construction of any Alteration for Tenant Improvements, Tenant shall give Landlord written notice of the expected commencement date of that construction to permit Landlord to post and record a notice of nonresponsibility.

If any such lien attaches or Tenant receives notice of any such lien, Tenant shall cause the lien to be immediately released and removed of record. Despite any other provision of this Lease, if the lien is not released and removed within five (5) days after Landlord delivers notice of the lien to Tenant, Landlord may immediately take all action necessary to release and remove the lien,

without any duty to investigate the validity of it. All expenses (including reasonable attorney fees) incurred by Landlord in connection with the lien shall be considered Additional Rent under this Lease and be immediately due and payable by Tenant.

ARTICLE 8

EXCULPATION, INDEMNIFICATION AND INSURANCE

8.1 Definitions.

As used in this Article 8, the following definitions shall apply:

(a) "Claims" shall mean all claims, losses, costs (including reasonable attorneys' fees), damages, expenses, liabilities, actions, causes of action, charges, assessments, fines and penalties of any kind.

(b) "Landlord Parties" shall mean the Landlord and its partners, officers, directors, trustees, members, employees and agents, independent contractors and Mortgagee.

(c) "Tenant Parties" shall mean the Tenant and its partners, officers, directors, trustees, members, employees, agents and independent contractors.

8.2 Exculpation of Landlord.

8.2.1 No Liability. To the fullest extent permitted by law, Tenant, on its behalf and on behalf of all Tenant Parties, waives all claims (in law, at equity or otherwise) against Landlord Parties arising out of, and Tenant knowingly and voluntarily assumes the risk of, and agrees that Landlord Parties shall not be liable to Tenant Parties for any of the following on or within the Premises:

(a) Injury to or death of any person; or

(b) Loss of, injury or damage to, or destruction of any tangible or intangible property, including the resulting loss of use, economic losses and consequential or resulting damage of any kind from any cause.

This exculpation clause does not apply to any claim against any of the Landlord Parties to the extent that a final judgment of a court of competent jurisdiction establishes that the injury, loss, damage or destruction was proximately caused by any of the Landlord Parties' fraud, negligence, willful injury to person or property or violation of any law.

8.2.2 Survival of Exculpation. This Section 8.2 will survive the expiration or earlier termination of this Lease until all claims within the scope of this Section 8.2 are fully and finally barred by the applicable statutes of limitations.

8.2.3 No Exculpation for Nondelegable Duties. This exculpation clause may not be interpreted or construed as an attempt by Landlord to be relieved of any liability arising out of any duty on the part of Landlord which is nondelegable by law.

8.2.4 Waiver of Civil Code section 1542. With respect to the exculpation provided in this Article 8, Tenant waives the benefits of Civil Code section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

8.3 Indemnification.

8.3.1 Tenant, at its sole cost and expense, with counsel reasonably acceptable to Landlord, shall (to the extent not covered by insurance carried by Tenant which covers Landlord Parties) indemnify and hold Landlord Parties harmless from and against all claims which either: (i) arise from or are in connection with the possession, use, occupation, management, repair, maintenance or control of the Premises; (ii) arise from or are in connection with any act or omission of Tenant Parties or any invitee, guest or licensee of Tenant in or about the Premises or the Real Property, (iii) result from any default, breach, violation or non-performance of this Lease or any provision of this Lease by Tenant or (iv) result in injury to person or property, or loss of life sustained in or about the Premises. The terms of the foregoing indemnity shall not apply with respect to the negligence or willful misconduct of any Landlord Party.

8.3.2 Tenant shall defend any claims against the Landlord Parties with respect to paragraph 8.3.1) above.

8.3.3 Landlord, at its sole cost and expense, with counsel reasonably acceptable to Tenant, shall (to the extent not covered by insurance carried by Landlord which covers Tenant Parties) shall indemnify and hold Tenant Parties harmless from and against all claims (i) incurred in connection with or arising from any cause in or about the common areas of the Building that is not attributable to the negligence or willful misconduct of any Tenant Parties or (ii) arising directly out of the negligence or willful misconduct of the Landlord Parties.

8.3.4 Landlord shall defend any claim against Tenant Parties with respect to paragraph 8.3.1) above.

8.3.5 The provisions of this Section 8.3 shall survive the expiration or earlier termination of this Lease until all claims against the Landlord Parties or Tenant Parties, as the case may be involving indemnified matters, are fully and finally barred by the applicable statute of limitations.

8.3.6 Indemnification Independent of Insurance Obligations. The indemnification provided in Section 8.3.1 may not be construed or interpreted as in any way restricting, limiting or modifying Tenant's insurance or other obligations under this Lease, and the provisions of this Article are independent of Tenant's insurance and other obligations. Tenant's compliance with the insurance requirements and other obligations under this Lease does not in any way restrict, limit or modify Tenant's indemnification obligations under this Lease.

8.4 Tenant's Liability Insurance. Except as provided in Section 8.9, Tenant will, at Tenant's sole expense, maintain the following insurance:

8.4.1 Commercial General Liability Insurance. Tenant will obtain commercial general liability insurance ("Liability Insurance") written on an "claims made" policy form, covering bodily injury, property damage, personal injury and advertising injury arising out of or relating, directly or indirectly, to Tenant's business operations, conduct, assumed liabilities or use or occupancy of the Premises or any other part of the Building.

8.4.2 Broad Form Coverage. Tenant's Liability Insurance will include all the coverages typically provided by the Broad Form Comprehensive General Liability Endorsement, including broad form property damage coverage, which will include coverage for completed operations. Tenant's Liability Insurance will also include premises-operations (when reasonably required by Landlord), and the broadest available form of contractual liability coverage. It is the intent of Landlord and Tenant that Tenant's contractual liability coverage will provide coverage to the maximum extent possible of Tenant's indemnification obligations under this Lease.

8.4.3 Primary Insured. Tenant will cause Landlord and any lender of Landlord to be named by endorsement as additional insureds under Tenant's Liability Insurance. The additional insured endorsement must be reasonably acceptable to Landlord.

8.4.4 Cross-Liability; Severability of Interests. Tenant's general liability policies will be endorsed as needed to provide cross-liability coverage for Tenant, Landlord and lender of Landlord, and will provide for severability of interests.

8.4.5 Primary Insurance Endorsements for Additional Insureds. Tenant's general liability policies will be endorsed as needed to provide that the insurance coverage under such policies to the additional insureds is primary, and that all insurance carried by Landlord is strictly excess and secondary, and will not contribute with Tenant's liability insurance.

8.4.6 Scope of Coverage for Additional Insureds. The coverage afforded to Landlord and any lender of Landlord must be at least as broad as that afforded to Tenant, and may not contain any terms, conditions, exclusions or limitations applicable to Landlord or any lender of Landlord that do not apply to Tenant.

8.4.7 Delivery of Certificate, Policy and Endorsements. Tenant will deliver to Landlord the endorsements referred to in this Section 8.4 before the commencement date of this Lease, along with a certified copy of Tenant's Liability Insurance policy or policies and an original certificate of insurance, executed by an authorized agent of the insurer or insurers, evidencing compliance with the liability insurance requirements. The certificate must provide for not less than thirty (30) days' advance written notice to Landlord from the insurer or insurers of any cancellation, non-renewal or material change in coverage or available limits of liability and must confirm compliance with the liability insurance requirements in this Lease. The "endeavor to" and "failure to mail such notice shall impose no obligation or liability of any kind upon the Company" language, and any similar language must be deleted from the certificate. If Tenant has a policy that is continuous in nature, Tenant shall provide Landlord at least annually, a written statement from the insurance company that the insurance is currently in effect.

8.4.8 Concurrency of Primary, Excess, and Umbrella Policies. Tenant's liability insurance coverage may be maintained under a combination of primary, excess and umbrella policies; provided, however, that those policies must be absolutely concurrent in all respects regarding the coverage afforded by the policies. The coverage of any excess or umbrella policy must be at least as broad as the coverage of the primary policy.

8.4.9 Liability Limits. The minimum acceptable limits of liability for Tenant's liability insurance are set forth below:

Bodily Injury and Property and Property Damage Liability	\$1,000,000 each occurrence \$2,000,000 annual aggregate
Personal Injury Liability	\$1,000,000 each occurrence \$2,000,000 annual aggregate

Landlord may increase the aforementioned limits not more often than once every three (3) years based upon the percentage increase in the cost of living since the date of this Lease, as determined by the percentage increase since the date of this Lease in the Consumer Price Index for Urban Wage Earners and Clerical Workers (base year 1967 = 100) for the United States, published by the United States Department of labor.

8.4.10 "Per Location" Endorsement. Tenant will, at Tenant's sole expense, procure a "per location" endorsement, or equivalent reasonably acceptable to Landlord, so that the general aggregate and other limits apply separately and specifically to the Premises.

8.4.11 Survival of Insurance Requirements. Tenant will, at Tenant's sole expense, maintain in full force and effect the liability insurance coverages required under this Lease and will maintain Landlord Parties and any lender specified by Landlord as additional insureds, as required by subparagraph 8.4.3), for a period of no less than two (2) years after the expiration or earlier termination of this Lease.

8.5 Tenant's Workers' Compensation and Employer Liability Coverage.

Except as provided in Section 8.9, Tenant will procure and maintain workers' compensation insurance as required by law and employer's liability insurance with limits of no less than One Million Dollars (\$1,000,000).

8.6 Tenant's Property Insurance.

8.6.1 Except as provided in section 8.9, Tenant will procure and maintain property insurance coverage for:

(a) All office furniture, trade fixtures, office equipment, merchandise and all other items of Tenant's personal property in, on, at or about the Premises, including property installed by, for or at the expense of Tenant;

(b) Leasehold improvements to the Premises made by Tenant;

(c) All improvements, betterments, alterations and additions to the Premises.

8.6.2 Tenant's property insurance must fulfill the following requirements:

(a) It must be written on the broadest available "all-risk" (special-causes-of-loss) policy form or an equivalent form acceptable to Landlord;

(b) It must include an agreed-amount endorsement for no less than one hundred percent (100%) of the full replacement cost (new without deduction for depreciation) of the covered items and property;

(c) The amounts of coverage must meet any coinsurance requirements of the policies; and

(d) Landlord and Landlord's agent must be named as an additional insured as its interest may appear.

It is the intent of Landlord and Tenant that Tenant will structure its property insurance program so that no coinsurance penalty will be imposed and there will be no valuation shortfalls or disputes with any insurer or with Landlord. The property insurance coverage must include vandalism and malicious mischief coverage, sprinkler leakage coverage and earthquake sprinkler leakage coverage.

8.7 Form of Policies and Additional Requirements.

8.7.1 Insurance Independent of Exculpation and Indemnification. The insurance requirements set forth in Sections 8.4, 8.5, and 8.6, are independent of Tenant's exculpation, indemnification, and other obligations under this Lease and will not be construed or interpreted in any way to restrict, limit or modify Tenant's exculpation, indemnification and other obligations or to in any way limit Tenant's liability under this Lease.

8.7.2 Form of Policies. In addition to the requirements set forth in subsection 8.4.7, the insurance required of Tenant under this Article must:

(a) Name Landlord and any other party Landlord specifies by endorsement as an additional insured;

(b) Be issued by an insurance company with a rating of no less than A-VIII in the current Best's Insurance Guide, or that is otherwise acceptable to Landlord, and admitted to engage in the business of insurance in the State where the Premises is located;

(c) Be primary insurance for all claims under it and provide that any insurance carried by Landlord and Landlord's lenders is strictly excess, secondary and noncontributing with any insurance carried by Tenant; and

(d) Provide that insurance may not be canceled, nonrenewed or the subject of material change in coverage or available limits of coverage, except upon thirty (30) days prior written notice to Landlord and Landlord's lenders.

8.8 Tenant's Delivery of Policy, Endorsements, and Certificates.

Tenant will deliver the policy or policies, along with any required endorsements and certificates required by this Article, to Landlord:

- (a) On or before the Lease Commencement Date;
- (b) At least thirty (30) days before the expiration date of any policy; and
- (c) Upon the renewal of any policy.

8.9 Tenant's Deductibles and Self-Insured Retentions.

Any deductible amount or self-insured retention under any insurance required to be maintained by Tenant herein shall not exceed Twenty Thousand Dollars (\$20,000.00) per occurrence. Notwithstanding the aforementioned, as long as the City of San Diego has not assigned this Lease, it may self insure with respect to Section 8.4, 8.5 and 8.6.

8.10 Waiver of Subrogation.

Landlord and Tenant agree to use reasonable efforts to cause the insurance companies issuing their respective property (first party) insurance to waive any subrogation rights that those companies may have against Tenant or Landlord, respectively, so long as the insurance is not invalidated by such waivers. If the waivers of subrogation are contained in their respective insurance policies, Landlord and Tenant waive any right that either may have against the other on account of any loss or damage to their respective property to the extent that the loss or damage is insured under their respective insurance policies.

ARTICLE 9

DAMAGE AND DESTRUCTION

9.1 Repair of Damage by Landlord. Tenant agrees to notify Landlord in writing promptly of any damage to the Premises resulting from fire, earthquake, or any other identifiable event of a sudden, unexpected, or unusual nature (Casualty). If the Premises are damaged by a Casualty or any common areas of the Building providing access to the Premises are damaged to the extent that Tenant does not have reasonable access to the Premises and if neither Landlord nor Tenant has elected to terminate this Lease under section 9.3 or 9.4, Landlord shall promptly and diligently restore such common areas, the Base Building of the Premises, and the Tenant Improvements originally constructed by Tenant to substantially the same condition as existed before the Casualty, except for modifications required by building codes and other laws and

except for any other modifications to the common areas considered desirable by Landlord. In making these modifications, Landlord shall not materially impair Tenant's access to the Premises. Landlord's obligation to restore is subject to reasonable delays for insurance adjustment and other matters beyond Landlord's reasonable control and subject to the other clauses of this Article 9. If Tenant requests that Landlord modify the Tenant Improvements in connection with the rebuilding, Landlord may condition its consent to those modifications on:

(a) Tenant's payment to Landlord before construction is begun of any sums in excess of the amount of insurance proceeds received by Landlord that are needed to complete the Tenant Improvements; and

(b) Confirmation by Landlord's architect or contractor that the modifications will not increase the scope of work or the time necessary to complete the Tenant Improvements.

9.2 Repair Period Notice. Landlord shall, within the later of (a) forty five (45) days after the date on which Landlord determines the full extent of the damage caused by the Casualty or (b) thirty (30) days after Landlord has determined the extent of the insurance proceeds available to effectuate repairs, provide written notice to Tenant indicating the anticipated period for repairing the Casualty (Repair Period Notice). The Repair Period Notice shall also state, if applicable, Landlord's election either to repair or to terminate the Lease under section 9.3.

9.3 Landlord's Option to Terminate or Repair. Landlord may elect either to terminate this Lease or to effectuate repairs if:

(a) The Repair Period Notice estimates that the period for repairing the Casualty exceeds one hundred eighty (180) days from the date of the commencement of the repair;

(b) The estimated repair cost exceeds the insurance proceeds, if any, available for such repair (not including the deductible, if any, on Landlord's property insurance), plus any amount that Tenant is obligated or elects to pay for such repair;

(c) The estimated repair cost of the Premises or the Building, even though covered by insurance, exceeds fifty percent (50%) of the full replacement cost; or

(d) The Building cannot be restored except in substantially different structural or architectural form than existed before the Casualty.

Landlord's election shall be stated in the Repair Period Notice.

9.4 Tenant's Option to Terminate. If the Repair Period Notice provided by Landlord indicates that the anticipated period for repairing the Casualty exceeds one hundred eighty (180) days, Tenant may elect to terminate this Lease by providing written notice (Tenant's Termination Notice) to Landlord within ten (10) days after receiving the Repair Period Notice. If Tenant does not elect to terminate within this ten-day (10-day) period, Tenant shall be considered to have waived the option to terminate.

9.5 Rent Abatement Due to Casualty. Landlord and Tenant agree that, if the Casualty was not the result of the negligence or willful misconduct of Tenant or Tenant's employees,

contractors, licensees, or invitees, Tenant shall be provided with a proportionate abatement of Rent based on the Rentable Square Footage of the Premises rendered unusable (due to physical damage to the Premises or Base Building Systems or the unavailability of access to the Premises) and not used by the Tenant, but only to the extent that Landlord is reimbursed from the proceeds of rental interruption insurance purchased by Landlord as a part of Operating Expenses. That proportional abatement, shall be provided during the period beginning on the later of (a) the date of the Casualty or (b) the date on which Tenant ceases to occupy the Premises and ending on the date of Substantial Completion of Landlord's restoration obligations as provided in this Article 9. Subject to Article 9.4, the Rent abatement provided in this section 9.5 is Tenant's sole remedy due to the occurrence of the Casualty. Landlord shall not be liable to Tenant or any other person or entity for any direct, indirect, or consequential damage (including but not limited to lost profits of Tenant or loss of or interference with Tenant's business), whether or not caused by the negligence of Landlord or Landlord's employees, contractors, licensees, or invitees, due to, arising out of, or as a result of the Casualty, (including but not limited to the termination of the Lease in connection with the Casualty).

9.6 Damage Near End of Term. Despite any other provision of this Article 9, if the Premises or the Building is destroyed or damaged by a Casualty during the last eighteen (18) months of the Lease Term, Landlord shall have the option to terminate this Lease by giving written notice to Tenant of the exercise of that option within thirty (30) days after that damage or destruction.

9.7 Effective Date of Termination; Rent Apportionment. If Landlord or Tenant elects to terminate this Lease under this Article 15 in connection with a Casualty, this termination shall be effective thirty (30) days after a delivery of notice of such election. Tenant shall pay Rent, properly apportioned up to the date of the Casualty. After the effective date of the termination, Landlord and Tenant shall be discharged of all future obligations under this Lease, except for those provisions that, by their terms, survive the expiration or earlier termination of the Lease.

9.8 Waiver of Statutory Provisions. The provisions of this Lease, including those in this Article 9, constitute an express agreement between Landlord and Tenant that applies in the event of any Casualty to the Premises, Building, or Real Property. Tenant, therefore, fully waives the provisions of any statute or regulation, including California Civil Code sections 1932(2) and 1933(4), for any rights or obligations concerning a Casualty.

ARTICLE 10

CONDEMNATION

10.1 Definition of Condemnation. As used in this Lease, the term "Condemnation" means a permanent taking through (a) the exercise of any government power (by legal proceedings or otherwise) by any public or quasi-public authority or by any other party having the right of eminent domain (Condemnor) or (b) a voluntary sale or transfer by Landlord to any Condemnor, either under threat of exercise of eminent domain by a Condemnor or while legal proceedings for condemnation are pending.

10.2 Effect on Rights and Obligations. If, during the Lease Term or the period between the date of execution of this Lease and the date on which the Lease Term begins, there

is any Condemnation of all or part of the Premises, Building, or Real Property on which the Premises and Building are constructed, the rights and obligations of the parties shall be determined under this Article 10 and Rent shall not be affected or abated except as expressly provided in this Article. Landlord shall notify Tenant in writing of any Condemnation within thirty (30) days after the later of (a) the filing of a complaint by Condemnor or (b) the final agreement and determination by Landlord and Condemnor of the extent of the taking (Condemnation Notice).

10.3 Termination of Lease.

10.3.1 Definition of "Termination Date." The "Termination Date" shall be the earliest of:

- (a) The date on which Condemnor takes possession of the property that is subject to the Condemnation;
- (b) The date on which title to the property subject to the Condemnation is vested in Condemnor;
- (c) If Landlord has elected to terminate, the date on which Landlord requires possession of the property in connection with the Condemnation, as specified in written notice delivered to Tenant no less than thirty (30) days before that date; or
- (d) If Tenant has elected to terminate, thirty (30) days after Landlord's receipt of written notice of termination from Tenant.

If both Landlord and Tenant have elected to terminate under this Article 10, the Termination Date shall be the earliest of the dates described in subparagraphs (a) – (d).

10.3.2 Automatic Termination. Landlord shall have the option to terminate this Lease if:

- (a) Ten percent (10%) or more of the Rentable Square Feet of the Building or the Premises is taken through Condemnation;
- (b) Any portion of the Building or Real Property necessary for Landlord to operate the Building efficiently is taken through Condemnation; or
- (c) Any other areas providing access to the Premises or Building are taken through Condemnation.

To elect to terminate the Lease under this subsection 10.3.3, Landlord must provide written notice of its election (Landlord's Taking Termination Notice) to Tenant within thirty (30) days after the later of (a) the filing of a complaint by Condemnor or (b) the final agreement and determination by Landlord and Condemnor of the extent of the taking. In that event, this Lease shall be terminated on the Termination Date, and all Rent shall be prorated to that date. If Landlord does not elect to terminate under this subsection 10.3.3, Landlord shall, subject to subsection 10.3.4, be obligated to the extent of severance damages received by Landlord to reasonably restore (to the extent feasible) the Premises or access to the Premises, subject to Landlord's obtaining all necessary approvals, permits, and authorizations relating to such work.

10.3.4 Tenant's Right to Terminate.

10.3.4.1 Grounds; Termination Notice. Tenant shall have the option to terminate this Lease by providing thirty (30) days' written notice to the Landlord if one or both of the following are taken through Condemnation:

(a) Ten percent (10%) or more of the Usable Square Feet of the Premises; or

(b) Any portion of the Building that provides Tenant with its access to the Premises and that, if taken, would eliminate Tenant's access to the Premises.

Tenant's notice must be given within thirty (30) days after Tenant's receipt of the Condemnation Notice required by section 10.2

10.3.4.2 Landlord's Restoration Notice. Despite Tenant's termination right, this Lease shall continue in full force and effect if Landlord gives Tenant written notice (Restoration Notice) within thirty (30) days after the date on which the nature and extent of the Condemnation are finally determined, stating that:

(a) Landlord shall, at Landlord's sole expense, reconfigure the remaining Premises or provide alternative, reasonable access to Tenant so that the area of the Premises shall be substantially the same after the Condemnation and Tenant shall have reasonable access to the Premises after the Condemnation;

(b) Landlord shall begin the restoration as soon as reasonably practicable; and

(c) Landlord has reasonably determined that such restoration can be completed within ninety (90) days after the date of the notice.

10.3.5 Tenant's Waiver. Tenant agrees that its rights to terminate this Lease due to partial Condemnation are governed by this Article 10. Tenant waives all rights it may have under California Code of Civil Procedure section 1265.130, or otherwise, to terminate this Lease on a partial Condemnation.

10.3.6 Proration of Rent. If this Lease is terminated under this Article 10, the termination shall be effective on the Termination Date, and Landlord shall prorate Rent to that date. Tenant shall be obligated to pay Rent for the period up to, but not including, the Termination Date as prorated by Landlord. Landlord shall return to Tenant prepaid Rent allocable to any period on or after the Termination Date.

10.4 Effect of Condemnation if Lease is Not Terminated. If any part of the Premises is taken by Condemnation and this Lease is not terminated, Rent shall be proportionately reduced based on the Rentable Square Footage of the Premises taken. Landlord and Tenant shall enter into an amendment to this Lease within thirty (30) days after the partial taking, confirming the reduction in Rentable Square Footage of the Premises and reduction in Rent. If Landlord gives Tenant a timely Restoration Notice under subsection 10.3.4.2, this Lease shall continue in full

force and effect without any reduction of Rent (unless the Premises as restored are smaller than the existing Premises, in which case Rent shall be proportionately reduced based on the reduced Rentable Square Footage), except that Rent shall be abated for the portion of the Premises not usable by Tenant until Landlord completes the restoration as provided in the Restoration Notice.

10.5 Allocation of Award.

10.5.1 Landlord's Right to Award. Except as provided in subsection 10.5.2 in connection with a Condemnation:

(a) Landlord shall be entitled to receive all compensation and anything of value awarded, paid, or received in settlement or otherwise (Award); and

(b) Tenant irrevocably assigns and transfers to Landlord all rights to and interests in the Award and fully releases and relinquishes any claim to, right to make a claim on, or interest in the Award, including any amount attributable to any excess of the market value of the Premises for the remainder of the Lease Term over the present value as of the Termination Date of the Rent payable for the remainder of the Term (commonly referred to as the "bonus value" of the Lease).

10.5.2 Tenant's Right to Compensation. Despite subsection 10.5.1, Tenant shall have the right to make a separate claim in the Condemnation proceeding, as long as the Award payable to Landlord is not reduced thereby, for:

(a) The taking of the unamortized or underpreciated value of any leasehold improvements owned by Tenant that Tenant has the right to remove at the end of the Lease Term and that Tenant elects not to remove.

(b) Reasonable removal and relocation costs for any leasehold improvements that Tenant has the right to remove and elects to remove (if Condemnor approves of the removal); and

(c) Relocation costs under Government Code section 7262, the claim for which Tenant may pursue by separate action independent of this Lease.

10.6 Temporary Taking. If a temporary taking of part of the Premises occurs through (a) the exercise of any government power (by legal proceedings or otherwise) by Condemnor or (b) a voluntary sale or transfer by Landlord to any Condemnor, either under threat of exercise of eminent domain by a Condemnor or while legal proceedings for condemnation are pending, Rent shall abate during the time of such taking in proportion to the portion of the Premises taken. The entire Award relating to the temporary taking shall be and remain the property of Landlord. Tenant irrevocably assigns and transfer to Landlord all rights to and interest in the Award and fully releases and relinquishes any claim to, right to make a claim on, and any other interest in the Award.

ARTICLE 11

ENVIRONMENTAL MATTERS

11.1 Use of Hazardous Material.

Tenant shall not cause or permit any Hazardous Material, as defined in Section 11.5, to be generated, brought onto, used, stored, or disposed of in or about the Premises or the Building by Tenant or its agents, employees, contractors, sub-tenants, or invitees, except for such standard substances that are required in the ordinary course of Tenant's business conducted on the Premises or are otherwise approved by Landlord. Tenant shall:

(a) Use, store, and dispose of all such Hazardous Material in strict compliance with all applicable statutes, ordinances, and regulations in effect during the Lease Term that relate to public health and safety and protection of the environment (Environmental Laws), including those Environmental Laws identified in Section 11.5; and

(b) Comply at all times during the Lease Term with all Environmental Laws.

11.2 Notice of Release or Investigation.

If, during the Lease Term (including any extensions), either Landlord or Tenant becomes aware of (a) any actual or threatened release of any Hazardous Material on, under, or about the Premises or the Building or (b) any inquiry, investigation, proceeding, or claim by any government agency or other person regarding the presence of Hazardous Material on, under, or about the Premises or the Building, that party shall give the other party written notice of the release or investigation within five (5) days after learning of it and shall simultaneously furnish to the other party copies of any claims, notices of violation, reports, or other writings received by the party providing notice that concern the release or investigation.

11.3 Indemnification.

Landlord and Tenant shall, at the party's sole expense and with counsel reasonably acceptable to the other party, indemnify, defend, and hold harmless the other party and the other party's shareholders, directors, officers, employees, partners, affiliates, and agents with respect to all losses arising out of or resulting from the release of any Hazardous Material in or about the premises or the Building, or the violation of any Environmental Law, by that party or that party's agents, contractors, or invitees. This indemnification includes all losses, liabilities, obligations, penalties, fines, claims, actions (including remedial or enforcement actions of any kind and administrative or judicial proceedings, orders, or judgments), damages (including consequential and punitive damages), and costs (including attorney, consultant, and expert fees and expenses) resulting from the release or violation. This indemnification shall survive the expiration or termination of this Lease.

11.4 Remediation Obligations; Tenant's Rights on Clean-up by Landlord.

If the presence of any Hazardous Material brought onto the Premises or the Building by either Landlord or Tenant or by Landlord's or Tenant's employees, agents, contractors or invitees results in contamination of the Building, that party shall promptly take all necessary

actions, at the party's sole expense, to return the Premises or the Building to the condition that existed before the introduction of such Hazardous Material. Tenant shall first obtain Landlord's approval of the proposed remedial action, which may not be unreasonably withheld or delayed. This provision does not limit the indemnification obligations set forth in Section 11.3.

11.5 Definition of "Hazardous Material."

As used in this Article 11, the term "Hazardous Material" shall mean any hazardous or toxic substance, material, or waste that is or becomes regulated by the United States, the State of California, or any local government authority having jurisdiction over the Building. Hazardous Material includes:

(a) Any "hazardous substance," as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA)(42 United States Code Sections 9601-9675);

(b) "Hazardous waste," as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA)(42 United States Code Sections 6901-6992k);

(c) Any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standards of conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereafter in effect);

(d) Petroleum products;

(e) Radioactive material, including any source, special nuclear, or byproduct material as defined in 42 United States Code Sections 2011-2297g-4;

(f) Asbestos in any form or condition; and

(g) Polychlorinated biphenyls (PCBs) and substances or compounds containing PCBs.

11.6 Pre-Existing Conditions.

Landlord shall indemnify and hold Tenant harmless from all claims by third parties arising out of the existence of Hazardous Materials on the Real Property and the Premises as of the Lease Commencement Date.

ARTICLE 12

ASSIGNMENT AND SUBLETTING

12.1 Assignment and Subletting.

12.1.1 Except as otherwise provided in this Section, Tenant shall not voluntarily assign or encumber its interest in this Lease, or in the Premises, or sublease all or any part of the Premises, or allow any other Person to occupy or use all or any part of the Premises, without first obtaining Landlord's prior written consent. Any assignment, encumbrance, or sublease without Landlord's consent shall be void. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this paragraph.

12.1.2 In addition to a direct transfer of this Lease, the following shall also be deemed an assignment of the Lease by the Tenant.

(a) If Tenant is a partnership, a withdrawal or change, voluntary, involuntary or by operation of law of one or more partners owning more than fifty-one percent (51%) of the Tenant whether such change of ownership occurs at one time or over a period of time in installments.

(b) If Tenant is a corporation, any dissolution merger, consolidation or other reorganization of Tenant, or the sale or other transfer of more than fifty percent (50%) of the combined power of all classes of Tenant's capital stock issued, outstanding and entitled to vote for directors whether such change of ownership occurs at one time or over a period of time in installments. This paragraph shall not apply to corporations, the stock of which is publicly traded through and exchange or over the counter.

12.1.3 Notwithstanding anything contained in this Article 12 to the contrary, Tenant shall have the right to assign this Lease or sublet the Premises, without obtaining Landlord's prior written consent thereto: (1) to an entity which is a parent, subsidiary, or affiliate (as defined in Securities Act of 1933 and the regulations thereunder) of Tenant for so long as such relationship to Tenant under this Lease exists; or (2) to a corporation which is a successor to Tenant and its subsidiaries and affiliates, by way of merger, consolidation or corporate reorganization, or to any entity which has succeeded to the interest of Tenant by the purchase of substantially all of the assets or share of stock of Tenant and its subsidiaries and affiliates, provided: (a) Tenant is not then in Default under the terms of this Lease; (b) promptly after the execution of any such assignment or subletting, a fully executed and acknowledged original assignment or sublease agreement, in proper form, is delivered to Landlord, which assignment shall contain an assumption agreement by the assignee in favor of Landlord of the terms and provisions of this Lease; and (c) Tenant shall remain liable under this Lease.

12.1.4 In the event Tenant wishes Landlord's consent referred to in Section 12.1.1 above, Tenant shall forward to Landlord:

(a) The names and addresses of all principals of the proposed assignee or sublessee.

(b) Financial statements of the proposed assignee or sublessee.

(c) The proposed business activity to be conducted by the proposed assignee or sublessee.

(d) A copy of the proposed assignment or sublease, pursuant to which such assignee or sublessee shall assume all obligations on Tenant's part to be performed hereunder and an agreement to observe all of the terms, provisions, and conditions of this Lease.

(e) A check payable to the Landlord in the amount of Five Hundred Dollars (\$500.00) to compensate Landlord for its fees and costs in reviewing the request for its consent and all documents related thereto.

12.1.5 Notwithstanding anything in this Article 12 to the contrary, if Tenant agrees to assign this Lease or to sublet all or any portion of the Premises, Tenant shall, prior to the effective date thereof (the "Effective Date"), deliver to Landlord fully executed counterparts of any such agreement and of all ancillary agreements with the proposed assignee or subtenant, as applicable. Landlord shall then have ALL THE FOLLOWING RIGHTS, any of which Landlord may exercise by written notice to Tenant given within thirty (30) days after Landlord receives the foregoing documents:

- (a) with respect to a proposed assignment of this Lease, the right to terminate this Lease on the Effective Date as if it were the Expiration Date;
- (b) with respect to a proposed subletting of all or any portion of the Premises, the right to terminate this Lease on the Effective Date as if it were the Expiration Date; or

If Landlord does not exercise any of its rights under this Section 12.1.5, then Landlord shall not unreasonably withhold its consent to Tenant's request for assignment of this Lease or a sublease of part or all of the Premises.

12.1.6 If Landlord exercises any of its options under section 12.1.5, Landlord may then lease the Premises or any portion thereof to Tenant's proposed assignee or subtenant, as the case may be, without liability whatsoever to Tenant.

12.1.7 No assignment by Tenant of its interest under this Lease, which is permitted herein, shall be valid or effective unless in writing and unless and until there is delivered to Landlord a copy of a written assignment and assumption agreement executed by the Tenant and the assignee, pursuant to which such assignee agrees to assume and be bound by all of the obligations of this Lease to be performed by Tenant from and after the effective date of such assignment. Any sublease of the Premises shall be subject to all of the terms, covenants, and conditions of this Lease.

12.1.8 The Tenant shall continue to remain liable for all past and future Rent and all other obligations and covenants of the Tenant hereunder notwithstanding any assignment or sublease.

12.1.9 Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all Rent from any subletting of all or a part of the Premises as permitted by this Lease, and Landlord, as assignee and as attorney-in-fact for Tenant, or a receiver for Tenant appointed on Landlord's application, may collect such Rent and

apply it toward Tenant's obligations under this Lease; except that, until the occurrence of any act of default by Tenant, Tenant shall have the right to collect such Rent.

12.1.10 One-half (1/2) of all Rent and/or other consideration received by Tenant from its sub-tenants in excess of the Base Rent payable by Tenant to Landlord under this Lease shall be paid by Tenant to Landlord within fifteen (15) days after receipt of same by Tenant from the sub-tenant. One-half (1/2) of any sums paid by an assignee of this Lease to Tenant in consideration of the assignment of this Lease shall be paid by Tenant to Landlord. If the assignee pays the Tenant a sum for the Lease and assets of the Tenant, a portion of such sum shall be equitably allocated to the assignment of the Lease based upon the fair market value of such other assets.

ARTICLE 13

SUBORDINATION AND ATTORNMENT

13.1 Subordination.

13.1.1 At Landlord's election, this Lease shall be subordinate or superior to the lien of any present or future Mortgage irrespective of the time of recording of such Mortgage. If, from time to time, Landlord shall elect that this Lease be subordinate to the lien of any Mortgage, Landlord may exercise such election by giving notice thereof to Tenant. The exercise of any of the elections provided in this paragraph shall not exhaust Landlord's right to elect differently thereafter, from time to time. At the election of Landlord, this clause shall be self-operative, and no further instrument shall be required. Upon Landlord's request, from time to time, Tenant shall (1) confirm in writing and in recordable form that this Lease is so subordinate or so paramount (as Landlord may elect) to the lien of any Mortgage; and/or (2) execute an instrument making this Lease so subordinate or so paramount (as Landlord may elect) to the lien of any Mortgage, in such form as may be required by an applicable Mortgagee.

13.1.2 This Lease shall not be subordinate to any present or future Mortgage unless the holder of any such Mortgage executes and delivers to Tenant a non-disturbance and attornment agreement, which agreement shall provide, inter alia, that, notwithstanding any foreclosure of such Mortgage or deed in lieu of foreclosure, such Mortgagee shall recognize this Lease, including all of Tenant's rights hereunder.

13.2 Attornment.

If the Real Property is encumbered by a Mortgage, and such Mortgage is foreclosed, or if the Real Property is sold pursuant to such foreclosure or by reason of a default under said Mortgage, then notwithstanding such foreclosure, such sale or such default (1) Tenant shall not disaffirm this Lease or any of its obligations hereunder, and (2) at the request of the applicable Mortgagee or purchaser at such foreclosure or sale, Tenant shall attorn to such Mortgagee or purchaser and execute a new lease for the Real Property setting forth all of the provisions of this Lease, except that the term of such new lease shall be for the balance of the Term.

ARTICLE 14

REMEDIES

14.1 Tenant's Default.

14.1.1 The occurrence of any of the following shall constitute a default by Tenant:

(a) failure to pay Rent, when due, if the failure continues for ten (10) days after written notice has been given to Tenant by Landlord;

(b) failure by Tenant to pay any monetary obligation provided herein, except as provided in paragraph (a) above or any breach of any other provision of this Lease if the breach is not cured within thirty (30) days after written notice; provided, however, with respect to a non-monetary breach, if Tenant cannot reasonably cure the breach within such thirty (30) day period, Tenant shall not be in default of this Lease if Tenant commences to cure the breach within the thirty (30) day period and diligently and in good faith continues to cure the breach.

14.2 Landlord's Remedies Cumulative.

Landlord shall have the following remedies set forth in subsections 14.2.1 through 14.2.8 below if Tenant commits a default. These remedies are not exclusive and may be exercised concurrently or successively; they are cumulative in addition to any remedies now or later allowed by law:

14.2.1 Bring Suit for Performance. Landlord may bring suit for the collection of the Rent or other amounts for which Tenant is then in default, or for the performance of any other covenant or agreement devolving upon Tenant, all without having to enter into possession or terminate this Lease;

14.2.2 Continuation of Lease in Effect. Landlord shall have the remedy described in Civil Code section 1951.4, which provides that, when a tenant has the right to sublet or assign (subject only to reasonable limitations), the landlord may continue the lease in effect after the tenant's breach and abandonment and recover Rent as it becomes due. Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may enforce all of Landlord's rights and remedies under this Lease, including the right to recover all Rent as it becomes due.

14.2.3 Termination of Lease and Tenant's Right to Possession. Landlord may terminate this Lease and Tenant's right to possession by giving Tenant five (5) days written notice of such termination. No act by Landlord, other than giving Tenant written notice of termination of this Lease, shall in fact terminate the Lease. Upon termination of the Lease, neither the Landlord nor the Tenant shall have any future rights or obligations under the Lease, except that Landlord shall have the right to recover from the Tenant the following:

(a) the worth, at the time of the award, of the unpaid Rent that had been earned at the time of termination of this Lease;

(b) the worth, at the time of the award, of the amount by which the unpaid Rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided;

(c) the worth, at the time of the award, of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; and

(d) any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under the Lease or which, in the ordinary course of things, would be likely to result therefrom.

14.2.4 Definitions. As used herein, the following phrases shall be interpreted as follows:

(a) "The worth, at the time of the award," as used in subsections 14.2.3(a) and (b) above, is to be computed by allowing interest at the maximum lawful rate. "The worth, at the time of the award," as referred to in subsection 14.2.3 above, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

(b) As used herein, the term "time of award" shall mean either the date upon which Tenant pays to Landlord the amount recoverable by Landlord as hereinabove set forth or the date of entry of any determination, order, or judgment of any court or other legally constituted body determining the amount recoverable, whichever first occurs.

14.2.5 Surrender. Promptly after notice of termination, Tenant shall surrender and vacate the Premises and all improvements in broom-clean condition, and Landlord may re-enter and take possession of the Premises and all remaining improvements and eject all parties in possession or eject some and not others, or eject none. Termination under subsection 14.2.3 shall not relieve Tenant from the payment of any sum due to Landlord or from any claim for damages previously accrued or then accruing against Tenant.

14.2.6 Assignment of Subrents. Tenant assigns to Landlord all subrents and other sums falling due from subtenants, licensees, and concessionaires (herein called subtenants) during any period in which Landlord has the right under this Lease, whether exercised or not, to re-enter the Premises for Tenant's default, and Tenant shall not have any right to such sums during that period. Landlord may, at Landlord's election, re-enter the Premises and improvements with or without process of law, without terminating this Lease, and either or both collect these sums or bring action for the recovery of the sums directly from such obligors. Landlord shall receive and collect all subrents and avails from reletting, applying them: first, to the payment of reasonable expenses (including attorneys' fees or brokers' commissions or both) paid or incurred by or on behalf of Landlord in recovering possession and placing the Premises and improvements in good condition; second, to the reasonable expense of securing new lessees; third, to the fulfillment of Tenant's covenants to the end of the Term; and fourth, to Tenant. Tenant shall nevertheless pay to Landlord on the due dates specified in this Lease the equivalent of all sums required of Tenant under this Lease, plus Landlord's expenses, less the avails of the sums assigned and actually collected under this provision. Landlord may proceed to collect either the

assigned sums or Tenant's balances, or both, or any installment or installments, either before or after expiration of the Term, but the period of limitations shall not begin to run on Tenant's payments until the due date of the final installment to which Landlord is entitled, nor shall it begin to run on the payments of the assigned sums until the due date of the final installment due from the respective obligors.

14.2.7 Appointment of Receiver. If Tenant fails to perform any of the obligations set forth in Section 14.1, and such failure or violation is not cured within the time periods set forth in Section 14.1, then Landlord shall have the right to have a receiver appointed to collect rent for any subtenants. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Landlord to terminate this Lease.

14.2.8 Landlord's Right to Cure Tenant's Default. Landlord, at any time after Tenant commits a default, can cure the default at Tenant's cost if Tenant fails to perform any of the obligations set forth in Section 14.1, and such failure or violation is not cured within the time periods provided in Section 14.1. If Landlord, at any time, by reason of Tenant's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be immediately reimbursed from Tenant to Landlord, and if paid at a later date shall bear interest at the Governing Interest Rate from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant.

14.3 Tenant's Waiver of Statutory Rights.

In the event of any termination of this Lease or re-entry by Landlord without termination as provided under this Article XIV, Tenant, so far as permitted by law, waives (a) any notice of re-entry or of the institution of legal proceedings to that end; (b) any right of redemption, re-entry, or repossession; and (c) any right to trial by jury.

14.4 No Counterclaim, Abatement, etc.

Except as otherwise specifically provided herein, Rent and all other sums payable by Tenant hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense, and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Tenant hereunder shall in no way be released, discharged or otherwise affected by reason of (a) any damage to or destruction of or any Condemnation of the Premises, including improvements thereto or any part thereof; (b) any restriction or prevention of or interference with any use of the Premises, including improvements thereto or any part thereof other than by Landlord; (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Landlord; (d) any claim which Tenant has or might have against Landlord; or (e) any failure on the part of Landlord to perform or comply with any of the terms hereof or of any other agreement with Tenant, whether or not Tenant shall have notice or knowledge of any of the foregoing. Nothing contained in the preceding sentence shall preclude Tenant from bringing an independent action against Landlord. Except as expressly provided in this Lease, Tenant waives all rights now or hereafter conferred by statute or otherwise to quit, terminate or surrender this Lease or the Premises or any part thereof, or to any abatement, suspension, deferment, diminution or reduction of rent or any other sum payable by Tenant hereunder.

14.5 Intentionally Omitted.

14.6 Intentionally Omitted.

14.7 Force Majeure.

Each Party shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and so long as the performance of any such obligation is prevented or delayed, retarded, or hindered by the following "Force Majeure" events: act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials, or supplies in the ordinary course on the open market; failure of normal transportation strikes, lock-outs, action of labor unions, condemnation, requisition, laws, orders of governmental or civil or military authorities; the inability to obtain governmental approvals or permits despite the exercise of due diligence and best efforts by a Party; or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of such Party, other than the lack of or inability to obtain funds.

ARTICLE 15

END OF TERM

15.1 Surrender of Premises.

15.1.1 On the Lease Termination Date the Tenant shall quit and surrender the Premises into the possession and use of Landlord without delay, broom-clean and in good order, condition and repair (reasonable wear and tear excepted), free and clear of all occupancies or subleases, and free and clear of all liens and encumbrances other than those, if any, created by Landlord. At the end of the Term or earlier termination of this Lease, despite any options or privileges herein contained, the title to and/or ownership of the Tenant Improvements, if not therefor vested in Landlord, shall automatically vest in Landlord without the execution of any further instrument, free and clear of all liens and encumbrances other than those, if any, created by Landlord. However, Tenant shall, on demand, execute any further assurances of title to the Tenant Improvements.

15.1.2 Any Alterations made to the Premises shall remain on and be surrendered with the Premises on the Lease Termination Date, except Landlord may elect by notice to Tenant, delivered concurrently with Landlord's consent to the Alteration, to require Tenant to remove such Alteration upon the Lease Termination Date. If Landlord so elects, Tenant, at its cost, shall remove such Alteration, repair any damage required by such removal and use reasonable efforts to attempt to match existing finishes, and shall cause all such work to be performed before the last day of the Term; provided, however, if pursuant to the first sentence of this Section 15.1.2 above, Landlord elects to require Tenant to remove such Alteration and if Tenant nevertheless

elects to proceed with such Alteration, Landlord may rescind its requirement that Tenant remove such Alteration by written notice to Tenant, at any time prior to the date that Tenant commences to remove such Alteration.

15.2 Tenant's Trade Fixtures.

All trade fixtures and equipment (not including plumbing and electrical fixtures that are a part of the Building and not including heating, ventilating, and air conditioning equipment installed by Landlord) installed by or for Tenant or its subtenants or licensees in the Premises, regardless of the manner of attachment, shall be and remain the property of Tenant or its subtenants or licensees. Landlord hereby waives any lien rights with respect to said trade fixtures, equipment, and merchandise inventory granted by or under any present or future law. Said trade fixtures, equipment, and merchandise inventory may be removed by Tenant or its subtenants or licensees at any time during the Lease Term, and shall be removed on or before the Lease Termination Date, but Tenant shall promptly repair all damage to the Premises caused thereby. Any of said trade fixtures remaining on the Premises after the Lease Termination Date shall be deemed abandoned and shall become the property of Landlord without payment therefor. Tenant, however, shall, in any event, irrespective of the characterization of the same, at Landlord's request, remove any vault, safe, or like security device from the Premises and repair any damage occasioned thereby, at the sole cost and expense of Tenant.

15.3 Abandoned Personal Property.

Any personal property of Tenant or any subtenant or occupant which shall remain in or on the Premises after the Lease Termination Date, may, at the option of Landlord and without notice, be deemed to have been abandoned by Tenant or such subtenant or occupant and may either be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may see fit, or, if Landlord may give written notice to Tenant to such effect, such property shall be removed by Tenant, at Tenant's cost and expense.

15.4 Holdover.

If the Premises are not surrendered as provided in this Article 15, Tenant shall indemnify and hold Landlord harmless against loss and liability (including attorneys' fees) resulting from the delay by Tenant or Tenant's assignee of this Lease or any sub-tenants in so surrendering the Premises, including, without limitation, any claims made by any succeeding occupant founded on such delay. If Tenant or Tenant's assignee of this Lease or any sub-tenant's shall hold over after the end of the Lease Termination Date, such holding over shall be construed as a tenancy at sufferance and Tenant shall pay Landlord for the use and occupancy of the Premises during such holdover period, an amount equal to one hundred fifty percent (150%) of the monthly Rent payable for the last month of the Term of this Lease.

15.5 Survival of Tenant Obligations.

All Tenant obligations and liabilities which have accrued as of the Lease Termination Date shall survive such date.

15.6 Survival.

The provisions of this Article 15 shall survive any termination of this Lease.

ARTICLE 16

MISCELLANEOUS

16.1 Attorneys' Fees.

Should any action or proceeding be commenced between the parties to this Lease concerning the Premises, this Lease, or the rights and duties of either in relation thereto, the party, Landlord or Tenant, prevailing in such litigation shall be entitled, in addition to other relief as may be granted in the action or proceeding, to a reasonable sum as and for its attorneys' fees and costs in such litigation which shall be determined by the court in such litigation or in a separate action brought for that purpose.

16.2 Notices.

All waivers, elections, options, notices, demands, and consents which either party may be required or may desire to give under this Lease ("Notice") shall be in writing and shall be effective when delivered by Federal Express or other 24-hour express courier service, personally delivered, or when deposited in an official United States Postal Service office or branch or official depository maintained by the United States Postal Service, by certified or registered mail, posted prepaid, return receipt requested or facsimile, addressed as follows:

To Tenant: **City of San Diego Real Estate
Assets Department
Attn: Diana Monaco
1200 Third Avenue, Suite 1700
San Diego, CA 92101**

To Landlord: **Urban Village Commercial, LLC
Attn: Jack McGrory
7979 Ivanhoe Avenue, Suite 520
La Jolla, CA 92037**

or such other address as either party may hereafter indicate by written notice to the other.

16.3 Governing Law.

This Lease and all matters relating to this Lease shall be governed by the laws of the State of California in force at the time any need for interpretation of this Lease or any decision or holding concerning this Lease arises.

16.4 Binding on Heirs and Successors.

This Lease shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto, Landlord and Tenant, but nothing in this Section shall be construed as a consent by Landlord to any assignment of this Lease or any interest therein by Tenant, except as may be specifically provided herein.

16.5 Partial Invalidity.

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

16.6 Entire Agreement.

This Lease and the exhibits attached set forth the entire agreement between the parties. Tenant enters into this Lease on the basis of its own independent investigation only and not any statement or representation of anyone else. Except as specifically set forth herein, there are no agreements, representations or warranties whatsoever as to any matter, including, but not limited to, the physical condition, layout, leases, footage, rents, income, expenses, operation, title, and zoning relating to the Premises. Any prior conversations or writings are merged herein, superseded hereby and extinguished. No subsequent amendment of this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by Landlord and Tenant.

16.7 Waiver.

No term, covenant, or condition of this Lease can be waived, except in writing, signed by the party making the waiver, Landlord or Tenant, as the case may be. No waiver of any default hereunder shall be implied from any omission by either party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver, and that only for the time and to the extent therein stated. The payment or acceptance of Rent or partial Rent with knowledge of the breach of any of the covenants of this Lease by Tenant or Landlord, as the case may be, shall not be deemed a waiver of any such breach. The consent or approval by either party to or of any act requiring consent or approval of the other party shall not be deemed to waive or render unnecessary that party's consent or approval to or of any subsequent similar act.

16.8 Sale or Transfer of Premises.

If Landlord sells, transfers, or assigns all or any portion of this Lease or the Premises, including improvements thereon, Landlord, on consummation of the sale, transfer or assignment, shall be released from any liability thereafter accruing under this Lease if Landlord's successor has assumed in writing, for the benefit of Tenant, Landlord's obligations thereafter accruing under this Lease, and Tenant has received a copy of such writing. Any prepaid Rent may be transferred to Landlord's successor, and on such transfer Landlord shall be discharged from any further liability in reference to the prepaid Rent.

16.9 Time of the Essence.

Time is expressly declared to be the essence of this Lease.

16.10 Estoppel Certificate.

Tenant shall, within ten (10) days notice from Landlord, execute and deliver to Landlord in recordable form, a certificate stating that this Lease is unmodified and in full force and effect, or in full force and effect as modified, and stating the modifications. The certificate also shall state the amount of current monthly Rent, the dates to which the Rent has been paid in advance, the amount of prepaid Rent, and any other information with respect to this Lease requested by Landlord. Failure to deliver the certificate within the ten (10) days shall be conclusive upon the party failing to deliver the certificate for the benefit of the party requesting the certificate and any successor to the party requesting the certificate, that this Lease is in full force and effect, and has not been modified, except as may be represented by the party requesting the certificate, and that Rent and other charges have not been paid for any period after date of Notice of Request.

16.11 Broker.

The Landlord and the Tenant each represent that it has not had any dealings with any broker, finder, or other person with respect to this Lease. Each party shall hold harmless and indemnify and defend the other party from all damages resulting from any claims that may be asserted against the other party by any broker, finder, or other person with whom the other party has purportedly dealt in connection with this Lease.

16.12 Intentionally Omitted.

16.13 Headings.

The headings of the articles and sections of this Lease are for convenience or reference only and are not a part of this Lease.

16.14 Number and Gender.

Whenever the context requires the singular number, it shall include the plural, the plural the singular, and the use of any gender shall include all genders.

16.15 Corporate Authority.

Each individual executing this Lease on behalf of a corporation represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the board of directors or in accordance with the by-laws of said corporation; that this Lease is binding upon said corporation in accordance with its terms.

16.16 Accord and Satisfaction.

(a) Payment by Tenant or receipt by Landlord of a lesser amount than the Rent or other charges herein stipulated shall be deemed to be on account of the earliest due stipulated

Rent or other charges, and no endorsement or statement on any check or any letter accompanying any check or payment as Rent or other charges shall be deemed an accord and satisfaction, and Landlord shall accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or other charges or to pursue any other remedy provided in this Lease or by law.

(b) No endorsement or statement on any check or any letter accompanying any check from Landlord to Tenant shall be deemed an accord and satisfaction, and Tenant shall accept such check or payment without prejudice to Tenant's right to recover any amount due Tenant or to pursue any other remedy provided in this Lease or by law.

16.17 Submission of Lease to Tenant.

The submission of this Lease to Tenant not signed by Landlord shall be for examination purposes only, and does not and shall not constitute an offer by Landlord to lease the Premises to Tenant or otherwise create any interest by Tenant in the Premises. Execution of this Lease by Tenant and return to Landlord shall not be binding upon Landlord, notwithstanding any time interval, unless and until Landlord has in fact executed and delivered this Lease to Tenant.

16.18 Consents.

With respect to any provision of this Lease which provides, in effect, that Landlord shall not unreasonably withhold or unreasonably delay any consent or any approval, Tenant shall not be entitled to make, nor shall Tenant make any claim for, and Tenant hereby waives any claim for money damages, except if Landlord acts in bad faith; nor shall Tenant claim any money damages by way of setoff, counterclaim or defense, based upon any claim or assertion by Tenant that Landlord has unreasonably withheld or unreasonably delayed any consent or approval; but Tenant's sole remedy shall be an action or proceeding or for specific performance, injunction, or declaratory judgment.

IN WITNESS WHEREOF, this Lease Agreement is executed by the parties hereto.

TENANT:

Redevelopment Agency of the
City of San Diego

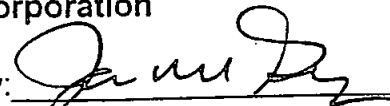
by: 
Todd Hooks

its: Deputy Executive Director
Date

LANDLORD:

Urban Village Commercial, LLC
by its Manager

San Diego Revitalization
Corporation

by: 
Jack McGrory

its: Executive Vice President

APPROVED AS TO FORM AND LEGALITY this 16th day of Sept, 2003.

CASEY GWINN, City Attorney

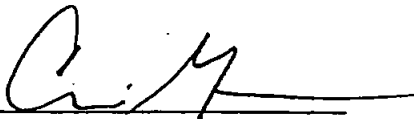
by: 

EXHIBIT A

LEGAL DESCRIPTION

Parcel 1 of Parcel Map No. 18673, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, April 5, 2001 as File No. 2001-0205971 of Official Records.

EXHIBIT B

LEASEHOLD IMPROVEMENT AGREEMENT

This Leasehold Improvement Agreement (the "LIA") shall set forth the terms and conditions relating to the construction of the Premises. This LIA is essentially organized chronologically and addresses the issues of the construction of the Premises, in sequence; as such issues will arise during the actual construction of the Premises. All references in this LIA to Articles or Sections of "this Lease" shall mean the relevant portions of this Lease to which this LIA is attached as Exhibit B, and all references in this LIA to Sections of "this LIA" shall mean the relevant portions of Sections 1 through 5 of this LIA.

SECTION 1

BASE BUILDING CONSTRUCTION

1.1 Base Building as Constructed by Landlord. Landlord, at its sole cost and expense shall construct the Base Building, as that term is defined below, which shall consist of only the following items.

1.1.1 Smooth concrete floor.

1.1.2 Unfinished ceilings.

1.1.3 Drywall (fire-taped) around surfaces of core walls, around surfaces of columns and underneath windowsills.

1.1.4 Primary heating, ventilating, and air-conditioning service ("HVAC") including the main distribution loop, but not including extensions from main distribution loop.

1.1.5 Primary electrical system which will service the floors of the Building on which the Premises are located, but not including any electrical sub-panels required for Tenant Improvements. The primary electrical system will provide power at a nominal 120 volts and capacity of one watt per usable square foot of the Premises for lighting and two watts per usable square foot of the Premises for other power requirement on 20-ampere circuits. All sub-panels, transformers and related equipment are not part of the Base Building and must be located in the Premises.

1.1.6 Life-safety systems as required by applicable building code ("Code") on an unoccupied basis.

1.1.7 Main telephone terminal panel located in the telephone/electrical room designated by Landlord and available for secondary branching by Tenant of lines to the Premises. All subpanels and related equipment are not part of the Base Building and must be located in the Premises.

1.1.8 The actual public corridor wall which is adjacent to the Premises but only as

to that portion of the Premises, if any, which occupies only a portion of a floor, rather than an entire floor, of the Building; provided that Landlord shall pay for the cost of constructing the corridor wall, Tenant shall pay for the drywall and any finishes on the interior Premises side of the corridor wall and Landlord shall pay for the drywall studs, insulation and any finishes on the exterior, common area side of the corridor wall.

SECTION 2

COST OF TENANT IMPROVEMENTS

2.1 Responsibility for Costs. Landlord shall design and construct Tenant Improvements as provided in Section 3 and Section 4 herein at the sole cost and expense of the Tenant, except for the Tenant Improvement Allowance as provided in Section 2.2 herein.

Prior to the commencement of the construction of the Tenant Improvements, Landlord shall provide Tenant with a budget for the costs to be incurred and/or which have been incurred in connection with the design and construction of the Tenant Improvements.

If, prior to commencement of construction of Tenant Improvements, Landlord determines that the estimated cost of design and construction of Tenant Improvements will exceed the Improvement Allowance, then Tenant shall pay such excess cost to Landlord prior to Landlord commencing construction of the Tenant Improvements.

Upon substantial completion of the Tenant Improvements, if the actual costs of Tenant Improvements exceed the Improvement Allowance, then Tenant shall upon receipt of a bill from Landlord pay Landlord such excess costs, after taking credit for any prior payments made by Tenant toward such excess costs.

2.2 Tenant Improvement Allowance. Tenant shall be entitled to a one-time tenant improvement allowance (the "Improvement Allowance") in the amount of Thirty Five Dollars (\$35.00) for each of the one thousand three hundred thirty five (1,335) Usable Square Feet of the Premises for the costs relating to the design and construction of Tenant's improvements, which are permanently affixed to the Premises (the "Tenant Improvements"). In no event shall Landlord be obligated to pay for Tenant Improvements in excess of the Tenant Improvement Allowance.

2.3 Use of the Tenant Improvement Allowance.

2.3.1 Tenant Improvement Allowance Items. Except as otherwise set forth in this LIA, the Tenant Improvement Allowance shall be applied by Landlord only for the following items and costs (collectively the "Tenant Improvement Allowance Items"):

2.3.1.1 Payment of the fees of the "Architect" and the "Engineers," as those terms are defined in Section 3.1 of this LIA, and payment of the fees incurred by, and the cost of documents and materials supplied by, Landlord and Landlord's consultants in connection with the preparation and review of the "Construction Drawings," as that term is defined in Section 3.1 of this LIA and the cost to prepare as-built drawings;

2.3.1.2 The payment of plan check, permit and license fees relating to construction of the Tenant Improvements;

2.3.1.3 The cost of construction of the Tenant Improvements, including, without limitation, testing and inspection costs, and trash removal costs, and contractors' fees and general conditions;

2.3.1.4 The cost of any changes in the Base Building when such changes are required by the Construction Drawings (including if such changes that are due to the fact that such work is prepared on an unoccupied basis), such cost to include all direct architectural and/or engineering fees and expenses incurred in connection therewith;

2.3.1.5 The cost of any changes to the Construction Drawings or Tenant Improvements required by Code;

2.3.1.6 One-half of the cost of the demising partitions between the Premises and other tenants' premises and between Premises and public corridors as described in Section 1.1.8;

2.3.1.7 Sales and use taxes and Title 24 fees; and

2.3.1.8 All other costs to be expended by Landlord in connection with the construction of the Tenant Improvements.

SECTION 3

CONSTRUCTION DRAWINGS – TENANT IMPROVEMENTS

3.1 Selection of Architect and Engineers. Landlord shall retain an architect/space planner as chosen by Landlord and Tenant (the "Architect") to prepare the Construction Drawings. Landlord, with Tenant's reasonable approval, shall retain the engineering consultants or cause the Contractor to retain design/build subconsultants (the "Engineers") to prepare all plans and engineering working drawings relating to the structural, mechanical, electrical, plumbing, HVAC, life safety, and sprinkler work in the Premises, which work is not part of the Base Building. The plans and drawings to be prepared by Architect and the Engineers hereunder shall be known collectively as the "Construction Drawings." All Construction Drawings shall comply with the drawing format and specifications determined by Landlord, and shall be subject to Landlord's approval, which Construction Drawings shall contain the information listed on Schedule 1, attached hereto.

3.2 Final Space Plan. Tenant shall promptly prepare a preliminary space plan for the Premises (the "Preliminary Space Plan"). The Preliminary Space Plan shall include a layout and designation of all offices, rooms and other partitioning, their intended uses, and equipment to be contained therein. Tenant shall prepare and supply Landlord with copies of the Preliminary Space Plan. Within fifteen (15) days of receipt of the Preliminary Space Plan, Landlord, Tenant and the Architect shall meet to make any necessary changes so that the Tenant can prepare a final space plan (the "Final Space Plan"). Upon approval of the Final Space Plan signed by Tenant, Tenant shall supply Landlord with two (2) copies of the Final

Space Plan signed Tenant. Landlord shall advise Tenant within five (5) business days after Landlord's receipt of the Final Space Plan if the same is unsatisfactory or incomplete in any respect. If Tenant is so advised, Tenant shall promptly cause the Final Space Plan to be revised to correct any deficiencies or other matters Landlord may reasonably require and shall provide two (2) copies of the revised Final Space Plan to Landlord. When the Final Space Plan is approved by Landlord, Landlord shall sign and return to Tenant one (1) copy of the Final Space Plan.

3.3 Final Working Drawings. After the Final Space Plan has been approved by Landlord and Tenant, Tenant shall supply the Engineers with a complete listing of standard and non-standard equipment and specifications, including, without limitation, B.T.U. calculations, electrical requirements and special electrical receptacle requirements for the Premises, to enable the Engineers and the Architect to prepare the "Final Working Drawings" (as that term is defined below) in the manner as set forth below. Upon the approval of the Final Space Plan by Tenant and Landlord, Landlord shall promptly cause the Architect and the Engineers to prepare the architectural and engineering drawings for the Premises, and the Architect shall compile a fully coordinated set of architectural, structural, mechanical, electrical and plumbing working drawings in a form which is complete to allow subcontractors to bid on the work and to obtain all applicable permits (collectively, the "Final Working Drawings"). Landlord shall supply Tenant with four (4) copies signed by Landlord of such Final Working Drawings. Tenant shall advise Landlord within five (5) business days after Tenant's receipt of the Final Working Drawings for the Premises if the same is unsatisfactory or incomplete in any respect. If Landlord is so advised, Landlord shall immediately revise the Final Working Drawings in accordance with such review and any disapproval of Tenant in connection therewith.

3.4 Approved Working Drawings. The Final Working Drawings shall be approved by Tenant prior to the commencement of construction of the Premises by Landlord. After approval by Tenant of the Final Working Drawings, Landlord may submit the same to the City of San Diego for all applicable building permits.

SECTION 4

CONSTRUCTION OF THE TENANT IMPROVEMENTS

4.1 Landlord's Selection of Contractor.

4.1.1 The Contractor. A general contractor reasonably approved by Tenant shall be selected and retained by Landlord to construct the Tenant Improvements.

SECTION 5

MISCELLANEOUS

5.1 Tenant's Representative. Tenant will designate a person as its sole representative with respect to the matters set forth in this LIA, who, until further notice to Landlord, shall have full authority and responsibility to act on behalf of the Tenant as required in this LIA.

5.2 Landlord's Representative. Landlord will designate a person as its sole representative

with respect to the matters set forth in this LIA, who, until further notice to Tenant, shall have full authority and responsibility to act on behalf of the Landlord as required in this LIA.

5.3 Time of the Essence in This LIA. Unless otherwise indicated, all references herein to a "number of days" shall mean and refer to calendar days. If any item requiring approval is timely disapproved by Landlord, the procedure for preparation of the document and approval thereof shall be repeated until the document is approved by Landlord.

5.4 Tenant's Lease Default. Notwithstanding any provision to the contrary contained in this Lease, if an event of default as described in this Lease or this LIA has occurred at any time on or before the Substantial Completion of the Premises, then (i) in addition to all other rights and remedies granted to Landlord pursuant to this Lease, Landlord shall have the right to cause the Architect to cease design of the Tenant Improvement and the Contractor to cease the construction of the Premises (in which case, Tenant shall be responsible for any delay in the substantial completion of the Premises caused by such work stoppage), and (ii) all other obligations of Landlord under the terms of this LIA shall be forgiven until such time as such default is cured pursuant to the terms of this Lease (in which case, Tenant shall be responsible for any delay in the substantial completion of the Premises caused by such inaction by Landlord).

SCHEDULE 1

Floor Plans Showing

1. Location and type of all partitions.
2. Location and type of all doors. Indicate hardware and provide keying schedule.
3. Location and type of glass partitions, windows, and doors. Indicate framing and reference full-height partitions.
4. Locations of telephone equipment room.
5. Critical dimensions necessary for construction, with indication of required clearances.
6. Location and types of all electrical items: outlets, switches, telephone outlets and lighting.
7. Location and type of equipment that will require special electrical requirements. Provide manufacturers' specifications for use and operation, including heat output.
8. Location, weight per square foot, and description of any heavy equipment or filing system.
9. Requirements for special air-conditioning or ventilation.
10. Location and type of plumbing.

11. Location and type of kitchen equipment.

12. Location, type and color of floor covering, wall covering, paint and finishes:

Details Showing

1. All millwork with verified dimensions of all equipment to be built in.

2. Corridor entrance.

3. Bracing or support of special walls, glass partitions, etc., if desired. If not included with the plans, Landlord's engineer will design all support or bracing required at Tenant's expense.

Additional Information

1. Title 24 energy calculations.

EXHIBIT C

CONFIRMATION OF LEASE COMMENCEMENT DATE AND RENT COMMENCEMENT DATE

Pursuant to Section 1.8.3 of that certain Lease dated _____ between _____ as "Landlord" and _____ as "Tenant," the said Landlord and Tenant confirm the following:

1. The "Lease Commencement Date" of the Lease is _____.
2. The "Rent Commencement Date" of the Lease is _____.
3. The "Lease Termination Date" shall mean _____, or upon earlier termination of the Lease.

DATED: _____

LANDLORD

by: _____

its: _____

TENANT

by: _____

its: _____

EXHIBIT D

RULES AND REGULATIONS

Tenant shall comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of these Rules and Regulations.

1. **Locks; Keys.** Tenant shall not alter any lock or install any new or additional locks or bolts on any doors or windows of the Premises without obtaining Landlord's prior written consent, which shall not be unreasonably withheld or delayed. Tenant shall bear the cost of any lock changes or repairs required by Tenant. Two keys shall be furnished by Landlord for the Premises, and any additional keys required by Tenant must be obtained from Landlord at a reasonable cost to be established by Landlord. Landlord agrees to furnish promptly any keys required by Tenant.
2. **Doors Opening to Public Corridors.** All doors opening to public corridors must be kept closed at all times except for normal ingress to and egress from the Premises.
3. **Securing Doors; Admission to Building.** Landlord reserves the right to close and keep locked all entrance and exit doors of the Building during the hours when Comparable Buildings are customarily closed and locked, subject to Tenant's permitted use. When departing after the Building's normal Business Hours, Tenant and Tenant's employees and agents must be sure that the doors to the Building are securely closed and locked. Any person, including Tenant and Tenant's employees and agents, who enters or leaves the Building at any time when it is locked or at any time considered to be after the Building's normal Business Hours, may be required to sign the Building register. Access to the Building may be refused unless the person seeking access has proper identification or has previously arranged a pass for access to the Building. Landlord and its agents shall not be liable for damages for any error concerning the admission to, or exclusion from, the Building of any person. Landlord reserves the right, in the event of invasion, mob, riot, public excitement, or other commotion, to prevent access to the Building or Real Property during the continuance of that event by any means it considers appropriate for the safety and protection of life and property.
4. **Furniture, Freight, and Equipment; Service Deliveries.** No furniture, freight, or equipment of any kind may be brought into the Building without prior notice to Landlord. All moving activity into or out of the Building must be scheduled with Landlord and done only at the time and in the manner designated by Landlord. No service deliveries (other than messenger services) shall be allowed between the hours of 4 p.m. and 6 p.m., Monday through Friday. Landlord may at any time restrict the elevators and areas of the Building into which messengers may enter and may require that deliveries be left at the lobby security desk for pickup by Tenant. Landlord may prescribe the weight, size, and position of all safes and other heavy property brought into the Building and the times and manner of moving those items within and out of the Building. Tenant shall not overload the floor of the Premises. If considered necessary by Landlord, safes and other heavy objects must stand on supports that are adequate to distribute the weight properly. Landlord shall not be responsible for loss of or damage to any safe or property. Any damage to any part of the Building or to its contents,

occupants, or visitors caused by moving or maintaining any safe or other property referred to in this clause shall be the sole responsibility and expense of Tenant.

5. **Receipt of Deliveries; Use of Elevators.** No furniture, packages, supplies, equipment, or merchandise may be received in the Building or carried up or down in the elevators, except between those hours and in that specific elevator that Landlord shall designate.

6. **Services Required by Tenant.** Services required by Tenant shall be attended to only on application at the management office for the Real Property or at any other office location designated by Landlord. Landlord's employees shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord.

7. **No Disturbance of Other Occupants.** Tenant shall not disturb, solicit, or canvass any occupant of the Real Property and shall cooperate with Landlord and Landlord's agents to prevent those actions.

8. **Use of Restrooms; Responsibility for Damage.** The restrooms, urinals, wash bowls, and other apparatus shall not be used for any purpose other than for which they were constructed, and no foreign substance of any kind shall be thrown into them. The expense of any breakage, stoppage, or damage resulting from violation of this rule shall be borne by the tenant who caused, or whose employees or agents caused, the breakage, stoppage, or damage.

9. **Restrictions on Defacement of Premises.** Tenant shall not mark, drive nails or screws into, or drill into the partitions, woodwork, or plaster, or in any way deface the Premises or any part of the Premises, without Landlord's prior written consent.

10. **Permitted Machines.** Except for vending machines intended for the sole use of Tenant's employees and invitees, no machines other than office machines of less than one horsepower shall be installed, maintained, or operated on the Premises without Landlord's prior written consent.

11. **Inflammable or Combustible Fluids or Materials.** Tenant shall not use, or keep in or on the Premises, Building, or Real Property, any kerosene, gasoline, or other inflammable or combustible fluid or material, except that Tenant may use or keep such fluids or materials if:

(a) They are required for Tenant's normal business operations; and

(b) Tenant notifies Landlord of the presence of those materials in the Premises; and

(c) Tenant does not keep in the Premises quantities of those substances that are greater than is necessary for Tenant's business operations.

Tenant shall store and dispose of any such materials in accordance with applicable laws, rules, regulations, fire insurance requirements, and building and fire codes.

12. Heating and Air-Conditioning. Tenant shall not use any method of heating or air-condition, other than that supplied by Landlord, without Landlord's prior written consent.

13. Foul or Noxious Gases or Substances; Noninterference With Others. Tenant shall not use or keep, or allow to be used or kept, any foul or noxious gas or substance in or on the Premises. Tenant shall not allow the Premises to be occupied or used in a manner causing noise, odors, or vibrations that are offensive or objectionable to Landlord or other occupants of the Real Property. Tenant shall not interfere in any other manner with other tenants or those having business in the Building or Real Property.

14. Animals, Birds, and Vehicles. Tenant shall not bring into, or keep within, the Premises, Building, or Real Property any animals, birds, or vehicles (e.g., bicycles).

15. Cooking; No Use of Premises for Improper Purposes. No cooking shall be done or permitted on the Premises, except that Underwriters' Laboratory (UL)-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate, and similar beverages for employees and visitors. This use must be in accordance with all applicable federal, state, and city laws, codes, ordinances, rules, and regulations. The Premises shall not be used for the storage of merchandise, for lodging, or for any improper, objectionable, or immoral purposes. Nothing in this clause shall prevent the serving of catered lunches and other meals in the Premises.

16. Telephone and Other Wires. Tenant may not introduce telephone wires or other wires into the Premises without first obtaining Landlord's approval of the method and location of such introduction. Landlord's approval shall not be unreasonably withheld or delayed. Tenant shall be entitled to relocate and install additional telephone and other wires within the interior of the Premises without obtaining Landlord's consent. No boring or cutting for wires in any exterior walls, or that would otherwise affect the Building's electrical systems, shall be allowed without Landlord's consent, which shall not be unreasonably withheld or delayed. The location of telephones, call boxes, and other office equipment affixed to the Premises shall be subject to Landlord's prior approval, which shall not be unreasonably withheld or delayed.

17. Exclusion or Expulsion. Landlord reserves the right to exclude or expel from the Real Property any person who, in Landlord's reasonable judgment, is under the influence of alcohol or drugs or commits any act in violation of any of these Rules and Regulations. Landlord shall be solely responsible for any lawsuit or other claim alleging violations of any civil rights laws or laws governing public access resulting from any exclusion or expulsion by Landlord.

18. Loitering Prohibited. Tenant and Tenant's employees and agents shall not loiter in or on the entrances, corridors, sidewalks, lobbies, halls, stairways, elevators, or common areas for the purpose of smoking tobacco products or for any other purpose. Tenant and Tenant's employees and agents shall not obstruct those areas but use them only as a means of ingress to and egress from the Premises.

19. Operation of Electricity, Water, and Air-Conditioning. Tenant shall not waste electricity, water, or air-conditioning and shall cooperate fully with Landlord to ensure the most

effective operation of the Building's heating and air-conditioning system. Tenant shall not adjust any controls of that heating and air-conditioning system.

20. **Disposal of Trash and Garbage.** Tenant shall store all trash and garbage within the interior of the Premises. Tenant shall not place or have placed in the trash boxes or receptacles any material that may not or cannot be disposed of in the ordinary and customary manner of removing and disposing of trash in the vicinity of the Building. In disposing of trash and garbage, Tenant shall comply fully with any law or ordinance governing that disposal. All trash, garbage, and refuse disposal shall be made only through entry-ways and elevators provided for that purpose and shall be made only at times designated by Landlord.

21. **Compliance With Safety Regulations.** Tenant shall comply with all safety, fire protection, and evacuation procedures and regulations established by Landlord or by any government agency.

22. **Protection of Premises.** Tenant shall assume all responsibility, including keeping doors locked and other means of entry to the Premises closed, for protecting the Premises from theft, robbery, and pilferage.

23. **Awning, Curtains, and Electrical Ceiling Fixtures.** No awnings or other projection shall be attached to the outside walls of the Building without Landlord's prior written consent. No curtains, blinds, shades, or screens shall be attached to, hung in, or used in connection with any window or door of the Premises without Landlord's prior written consent. All electrical ceiling fixtures hung in offices or spaces along the perimeter of the Building must be fluorescent or of a quality, type, design, and bulb color approved by Landlord. Tenant shall abide by Landlord's regulations concerning the opening and closing of window coverings attached to those windows, if any, in the Premises that have a view of any interior portion of the Building or Building Common Areas.

24. **Nonobstruction of Light.** Tenant shall not cover or obstruct the sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into the halls, passageways, or other public places in the Building. Tenant shall not place any bottles, parcels, or other articles on the windowsills.

25. **Provision of Information to Tenant's Employees.** Tenant shall comply with requests by Landlord that Tenant inform Tenant's employees of items of importance to Landlord.

26. **Hand Trucks and Similar Equipment.** Without Landlord's prior consent, Tenant shall not use, in any space or in the public halls of the Building, any hand trucks unless they are equipped with rubber tires and side guards or similar equipment. Tenant shall not bring any other vehicles of any kind into the Building.

27. **Use of Building's Name or Likeness.** Without Landlord's prior written consent, Tenant shall not use the Building's name or any photograph or other likeness of the Building in connection with, or in promoting or advertising, Tenant's business, except that Tenant may include the Building's name in Tenant's address.

28. Nontoxic Materials. All materials, fabrics, and products used in Tenant's furnishings, wall and floor coverings, and ceiling installations shall be nontoxic and subject to the prior approval of Landlord's architect or engineer, which shall not be unreasonably withheld or delayed.

29. Rules Changes; Waivers. Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations or to make any additional reasonable Rules and Regulations that, in Landlord's judgment, may be necessary for:

(a) The management, safety, care, and cleanliness of the Premises, Building, and Real Property;

(b) The preservation of good order; and

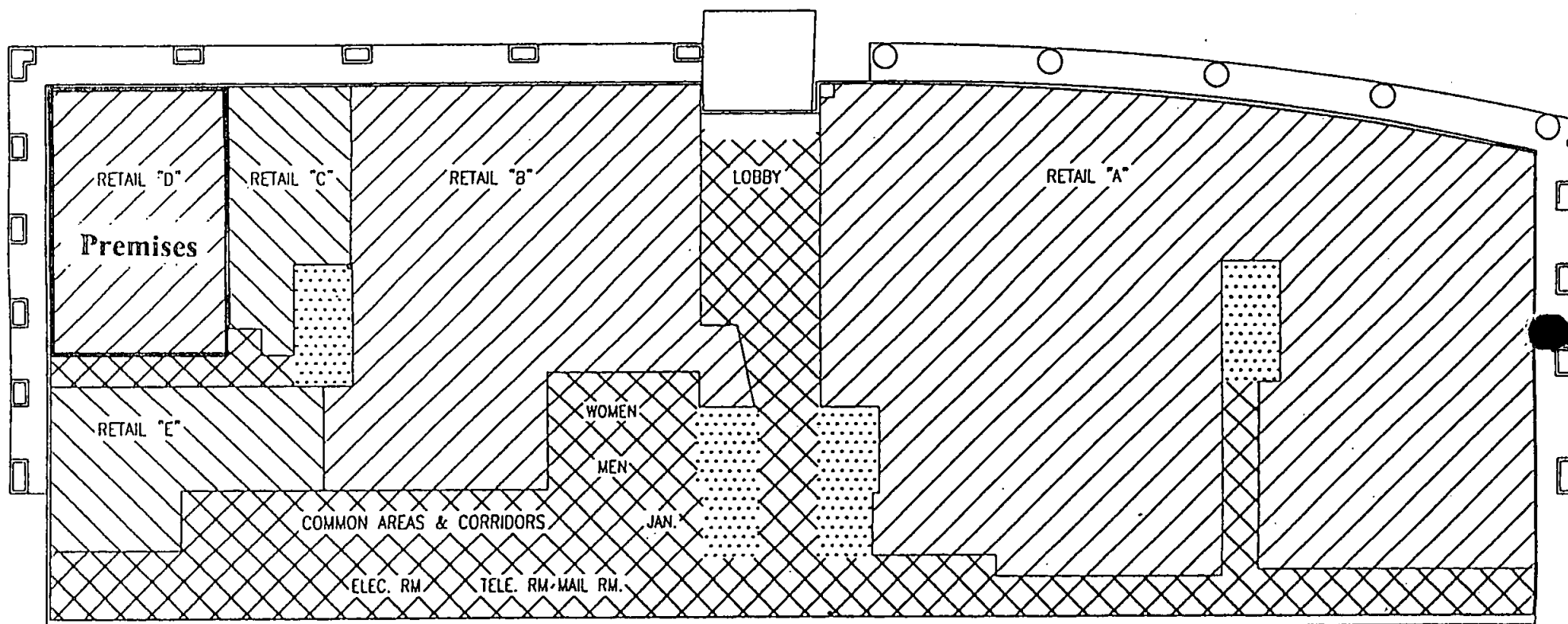
(c) The convenience of other occupants and tenants in the Premises, Building, and Real Property.

Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenants. No waiver by Landlord shall be construed as a waiver of those Rules and Regulations in favor of any other tenant, and no waiver shall prevent Landlord from enforcing those Rules and Regulations against any other tenant of the Real Property. Tenant shall be considered to have read these Rules and Regulations and to have agreed to abide by them as a condition of Tenant's occupancy of the Premises.

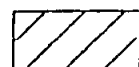
30. Window Signage

(a) Except as may be authorized in writing by Landlord no tenant shall affix a sign, lettering or graphic to the exterior building glass or place a sign, lettering or graphic in a window area so that it can be seen from outside the building.

(b) With Landlord's prior written approval, a tenant, whose premises are located on the ground floor of the Building, may affix to the exterior Building glass a sign, lettering or graphic indicating the name of the tenant and the hours it is open to the public.



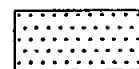
KEY



FLOOR USABLE AREA



FLOOR COMMON AREAS



MAJOR VERTICAL PENETRATION

USABLE AREAS:

RETAIL "A"	8,656 USF
RETAIL "B"	3,661 USF
RETAIL "C"	743 USF
RETAIL "D"	1,335 USF
RETAIL "E"	1,016 USF
TOTAL	15,411 USF

CITY HEIGHTS OFFICE BUILDING

FIRST FLOOR

SCALE: NOT TO SCALE

UPDATED 10/18/02

Exhibit E
Floor Plan

REQUEST FOR REDEVELOPMENT AGENCY ACTION

REA24

CITY OF SAN DIEGO

Ac 2301272

TO: AGENCY COUNSEL	2. FROM (ORIGINATING DEPARTMENT) Real Estate Assets Department	3. DATE May 20, 2003
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4. SUBJECT Office Space Lease Agreement - Redevelopment Agency - 4305 University Avenue

5. FOR INFORMATION CONTACT: (NAME & MAIL STN.) Gibson/Monaco 51A	6. TELEPHONE NO. 66727/66081	7. CHECK HERE IF 1472A, "DOCKET SUPPORTING INFORMATION, HAS BEEN COMPLETED ON PAGE 2" ☒
---	---------------------------------	---

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	98200				9. ADDITIONAL INFORMATION/ESTIMATED COST: Cost: \$3,730.70 per month (base rent, operating expenses and utility costs) Fiscal Impact: \$37,307.00 Job: 223347 cc: Redevelopment Agency Secretary Thomas Guide page: 1269-H5
DEPT.	9823				
ORGANIZATION	1001 1002				
OBJECT ACCOUNT	4680				
JOB ORDER	001001 001002				
C.L.P.					
AMOUNT	\$37,307.00				

ROUTE (#)	APPROVING AUTHORITY	APPROVING SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVING SIGNATURE	DATE SIGNED
X	READ DEPT. DIRECTOR Will Griffith		5/30/03	X	ASSISTANT EXECUTIVE DIRECTOR H. Cunningham		6/17/03
X	DSD/EAS		6/2/03	X	AUDITOR L. Chim		6/23/03 6/17/03
X	Redevelopment Agency Todd Hooks		6/3/03	X	AGENCY COUNSEL		6/24/03
X	FINANCIAL MANAGEMENT		6/10/03	X	ORIGINATING DEPARTMENT	D. Monaco	6-24-03
	EOCP/MEMO 5-3-96				REDEVELOPMENT AGENCY SECRETARY		6/25/03 Jeannette I. Santos

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

Authorize the Executive Director to execute a lease agreement between the City's Redevelopment Agency and Urban Village Commercial, LLC, the landlord, for office space located at 4305 University Avenue. The Redevelopment Agency will be leasing approximately 1,441 square feet with a monthly rental rate starting at \$1.85 per square foot. The lease term will be approximately 10-years with two 5-year options to extend. The target commencement date is September 1, 2003. Docket of July 15, 2003

Executive Director's RECOMMENDATIONS: Authorize Executive Director to Execute the Lease.

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

COUNCIL DISTRICT(S): 03 COMMUNITY AREA(S): City Heights
 ACTION REQUESTED BY: Redevelopment Agency
 DOCUMENT SUBMITTED: Lease agreement in triplicate for execution by the Assistant Executive Director.
 DESCRIPTIVE LOCATION: 4303 University Avenue, San Diego, CA 92105.
 ENVIRONMENTAL REVIEW: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15301.
 HANDLING: DO NOT RECORD. Return documents to the Real Estate Assets Department, Attention: Diana Monaco, M. S. 51A, for further handling.

SUBJECT:

Office Space Lease Agreement – Redevelopment Agency – 4305 University Avenue

BACKGROUND:

The Redevelopment Agency is currently leasing space on the 4th floor of 600 B Street. A portion of their staff are working on long term projects to redevelop the City Heights community. Recently, office space has been located within one of the new office buildings in the City Heights Redevelopment area. A portion of Redevelopment staff will be relocated to the proposed leased space to better accommodate the needs of the community on the redevelopment projects. In addition, the Mid-City Community Service Center will be collocated to this space. The Redevelopment Agency proposes to lease the space under the following basic terms:

Term – Ten (10) years, with two 5-year options to extend the lease. The target commencement date is September 1, 2003.

Size – Approximately 1,441 rentable square feet.

Rent - \$1.85 per square foot or \$2,665.85 per month in base rent costs. Office space in the area is approximately \$1.63 per square foot. In addition to the base rent, Redevelopment will pay approximately \$0.60 per square in operating expenses or \$864.60 per month. Utilities are separately metered and will be paid directly by the Redevelopment Agency. Assume \$0.15 per usable square foot (1,335/usf) for utility costs.

Use – Office space for the Redevelopment Agency and the Mid-City Community Service Center.

Tenant Improvements – The landlord will install the tenant improvements at its sole cost. The costs are estimated at \$46,725.00.

In Lieu Payments – On May 20, 2003, the Redevelopment Agency approved the Second Implementation Agreement for the development and operation of the new office building. This agreement obligates the landlords to make annual in-lieu payments to the Redevelopment Agency of \$200,000.00 in the first year and escalating by up to 2% annually thereafter. A portion of the in-lieu payments will be used for the rent payments.

Fiscal Impact: \$37,307.00 will be paid out of Redevelopment's Fund 98220, Dept. 9823 for FY 2004.

BY LINE: (ASSISTANT EXECUTIVE DIRECTOR / DEPT. HEAD / AUTHOR INITIALS)

Cunningham: Griffith: DLM

Job: 223347

SIGNATURES:

ORIGINATING DEPT. HEAD

Assistant Executive Director
(FOR MANAGERIAL DEPARTMENTS ONLY)

SAN DIEGO REVITALIZATION CORPORATION
7979 IVANHOE AVENUE
SUITE 520
LA JOLLA, CALIFORNIA 92037

(858) 551-2321
FAX (858) 551-2340

February 20, 2004

Mr. Will Griffith
Director
Real Estate Assets Department
The City of San Diego
202 C Street, 9th Floor
San Diego, CA 92101

Re: Lease Commencement Date & Payment of Tenant Improvement Excess
Lease Between Redevelopment Agency and San Diego Revitalization
Corporation City Heights Center, 4305 University Avenue, Suite 120, San
Diego

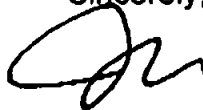
Dear Will:

This letter is to confirm that the Lease Commencement Date and the Rent
Commencement Date for the above referenced lease will be April 1, 2004. The
tenant improvement work will be completed on that date.

Additionally, Section 2.1 of Exhibit B to the Lease provides that if the
estimated costs of the tenant improvements will exceed the Improvement
Allowance, the tenant shall pay such excess costs prior to the commencement of
the improvements. On January 12, 2004, we notified the City that the costs for
the tenant improvements were estimated to be \$93,911.81. Shortly thereafter
SDRC began the improvements with the City's approval. The improvement
allowance is \$46,725. SDRC requests the City pay now the excess improvement
cost of \$47,186.81. Upon completion of the improvements, a final accounting will
be prepared and delivered to the City.

Thank you for your attention to these matters. We look forward to having
the Community Service Center join us at City Heights Center.

Sincerely,



Jack McGrory

cc: Councilmember Toni Atkins
Diana Monaco, City of San Diego
Joe LaBreche, SDRC
Dan Casey, Stepstone Real Estate Services

FEB-24-2004

6AM

FROM-JACK MCGR

R PRODUCTS

858 551 2302

858-551-2302

T-326

P.001/002

F-780

PRICE ENTITIES

**7979 Ivanhoe Avenue
Suite 520
La Jolla, CA 92037
858-551-2303
858-551-2340(fax)**

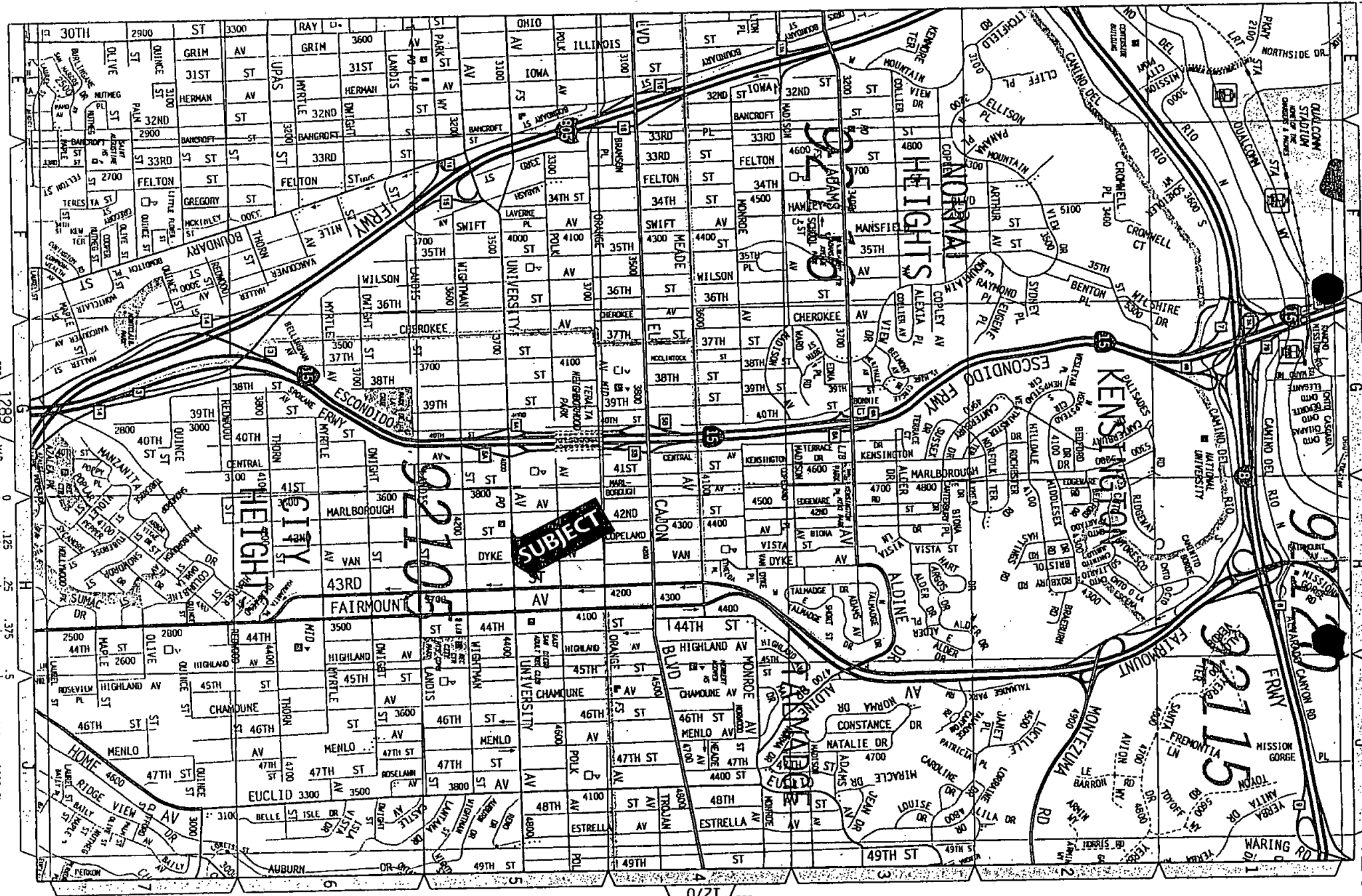
FAX TRANSMITTAL

**To: Diana Monaco
Telephone No.
Fax: 619-236-6706**

**From: Jack McGrory
Telephone No: 858-551-2302
Fax No: 858-551-2340**

Date: February 24, 2004

Number of Pages (including cover sheet): 2



1289 MAP 0 125 25 375 5
Scale 1 in = 1000 ft

SEE 1270 MAP

SAN DIEGO CO

REDEVELOPMENT AGENCY OF

THE CITY OF SAN DIEGO

RESOLUTION NO. P-03675

ADOPTED ON SEP 02 2003

A RESOLUTION OF THE REDEVELOPMENT AGENCY
OF THE CITY OF SAN DIEGO AUTHORIZING THE
EXECUTIVE DIRECTOR TO EXECUTE A LEASE WITH
URBAN VILLAGE COMMERCIAL FOR OFFICE SPACE AT
4305 UNIVERSITY AVENUE IN THE CITY HEIGHTS
REDEVELOPMENT PROJECT AREA.

WHEREAS, the Redevelopment Agency of the City of San Diego [the Agency] has
negotiated a lease with Urban Village Commercial, LLC [Lessor] for approximately 1441 square
feet of office space (1335 usable square feet) located at 4305 University Avenue; and

WHEREAS, the initial rental rate for the office space is \$1.85 per square foot (\$2,665.85
per month) in base rent, plus additional rent to cover actual operating expenses capped at \$0.60
per square foot (\$864.60 per month), plus utilities, estimated by staff to be an additional \$0.15
per usable square foot (\$200.25 per month) for a total estimated monthly rent of \$3,730.70; and

WHEREAS, the proposed lease provides for tenant improvements to be paid for by
Lessor in the estimated amount of \$46,725; and

WHEREAS, the lease would commence upon the substantial completion of construction of the tenant improvements, now expected to be on or about September 1, 2003, and continue for a term of ten years with an option to extend the lease for two additional five-year terms, with annual increases to the base rent of three percent (3%) and annual increases to the cap on actual operating expenses of five percent (5%); and

WHEREAS, the purpose of this lease is to provide office space for the Redevelopment Agency within the City Heights Redevelopment Project area and to provide office space for the Mid-City Community Service Center; and

WHEREAS, pursuant to section 1.12 of the proposed lease, the Agency has the option to terminate the lease in the event that in any fiscal year the sum of tax increment attributable to the office building plus the amount of "In Lieu Payments" due from the Lessor are less than the Base Rent due from the Agency in the same fiscal year; and

WHEREAS, as part of the Lease, Agency will also be renting four parking spaces in the building at an additional cost of \$200 per month, subject to increases of two percent per year; and

WHEREAS, staff has not been able to locate comparable class A office space in the City Heights neighborhood and other office space in City Heights rents for approximately \$1.63 per square foot; NOW, THEREFORE,

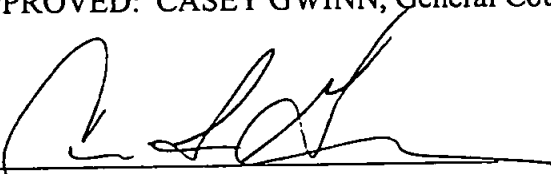
BE IT RESOLVED, by the Redevelopment Agency of the City of San Diego, as follows:

1. That the proposed Office Lease Agreement and the terms and conditions thereof are approved.

2. That the Executive Director of the Agency, or designee, is authorized to execute, for and on behalf of the Agency, the Office Lease Agreement with Urban Village Commercial for approximately 1441 square feet of office space located at 4305 University Avenue for use by the Agency and the Mid-City Community Service Center as office space, at an initial rental rate (including utilities) of approximately \$3,730.70 per month, on the terms and conditions set forth in the Office Lease Agreement on file in the office of the secretary to the Agency as

Document No. D- 03675.

APPROVED: CASEY GWINN, General Counsel

By 
Carrie Gleeson
Deputy General Counsel

CLG:mm
06/24/03
Or.Dept:Redev.
Aud.Cert:N/A
RA-2004-4
Form=rda&t-comp.frm

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

Revised
AC 2301272
DEPT. NO. 070

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$37,307.00

Vendor: Urban Village Commercial, LLC

Purpose: Authorizing the expenditure of funds for the office space lease agreement for City Heights Project Area.

Date: June 23, 2003 By: [Signature]

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	98200	9827	1002	4680	001002				\$37,307.00
TOTAL AMOUNT										\$37,307.00

AC-361 (REV 2-92)

FUND OVERRIDE ☐

AC 2301272
Revised

SEP 02 2003

Passed and adopted by The Redevelopment Agency of The City of San Diego
by the following vote:

Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	☒	☐	☐	☐
Michael Zucchet	☒	☐	☐	☐
Toni Atkins	☒	☐	☐	☐
Charles Lewis	☒	☐	☐	☐
Brian Maienschein	☒	☐	☐	☐
Donna Frye	☐	☒	☐	☐
Jim Madaffer	☒	☐	☐	☐
Ralph Inzunza	☒	☐	☐	☐
Chair Murphy	☒	☐	☐	☐

AUTHENTICATED BY:

DICK MURPHY

Chair of The Redevelopment Agency of The City of San Diego, California

CHARLES G. ABDELNOUR

Secretary of The Redevelopment Agency of The City of San Diego, California

By

Gamelle J. [Signature]

Deputy

(Seal)

Office of The Redevelopment Agency, San Diego, California

Resolution
Number

R 03675

Adopted

SEP 02 2003

Carrie Gleeson - Re: 1472 for Urban Village Commercial Lease

From: Diana Monaco
To: Carrie Gleeson
Date: 6/23/2003 9:01 AM
Subject: Re: 1472 for Urban Village Commercial Lease

Yes, they both were sent advanced copies. We do this so that if anyone has questions and/or there is a change, it can be on time. The base rent, operating expenses and utility are \$3,730.70/mo. and the total FY impact is \$37,307.00.

>>> Hank Cunningham 06/21/03 12:57PM >>>

I was told last week that the 1472 had finally cleared the last hurdle - FM. Hasn't this already been reviewed by both Auditor and City Atty.? Can we please get this done once and for all?

Hank

>>> Carrie Gleeson 06/21/03 08:23 AM >>>

Good news! The 1472 has been found in Auditors. Apparently it was never delivered to our office. Bad news :-(It may need to go back there.

Please answer the following questions so that we can wrap this up.

There's a discrepancy between the numbers in Box 9 of the 1472 and those on the A page. The A page numbers add up to \$3,730.70 per month; box 9 says \$3712.70. Is there a reason for this or does it just need to be fixed?

How are you accounting for the \$200 per month in parking fees under section 1.11? Will they be part of the lease payments or will they be paid some other way. The lease requires that the Agency rent the spaces during the entire term.

Carrie

Carrie Gleeson
Deputy City Attorney
San Diego City Attorney's Office
619-533-5826
Fax 533-6582
cgleeson@sandiego.gov

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CERTIFICATE OF UNALLOTTED BALANCE

AC 2301272

ORIGINATING

DEPT. NO.:

070

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$37,127.00

Vendor: Urban Village Commercial, LLC

Purpose: Authorizing the expenditure of funds for the office space lease agreement for City Heights Project Area.

Date: June 17, 2003 By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	98200	9827	1002	4680	001002				\$37,127.00
TOTAL AMOUNT										\$37,127.00

AC-361 (REV 2-92)

FUND OVERRIDE ☐

AC 2301272