

DUPLICATE

LEASE AGREEMENT
BETWEEN
THE CITY OF SAN DIEGO
AND
3RD WORKS, LLC

DOCUMENT NO. 00-18940
MAY 07 2001
FILED _____
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

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THE CRABTREE BUILDING LEASE

THIS LEASE AGREEMENT dated, for reference purposes only, January 18, 2001, is executed between the CITY OF SAN DIEGO, a California municipal corporation, hereinafter called ("CITY") and 3RD WORKS, LLC, a California corporation, hereinafter called ("LESSEE") which is granted for the consideration hereinafter recited:

CITY leases to LESSEE and LESSEE leases from City certain space for the purposes of conducting LESSEE's business.

1. Location. The Crabtree Building, hereinafter called "Building" located at 303 "A" Street, San Diego, California 92101.
2. Space Leased. A portion of the 4th floor, also known as Suite 403 hereinafter called "Premises" consisting of approximately 2,034 rentable square feet as shown on the attached floor plan as Exhibit A. LESSEE shall be entitled to lease five (5) reserved parking spaces at a rate of \$65.00 per space per month as shown on the attached Parking Garage Layout.
- 2b. First Right of Refusal. Provided that LESSEE is not in default of this lease or any extension thereof, LESSEE shall be granted one First Right of Refusal to lease Suite 405 and 410. LESSEE shall respond in writing to CITY within ten (10) days of its option to exercise this Right.
3. Use of Premises. Office uses limited to: General office usage for real estate development services and other related uses as may be approved in writing in advance by the City Manager.
4. Term of Lease. The term of this lease shall be for three (3) years commencing March 21, 2001. The rent commencement date for the first year shall be June 1, 2001 due to LESSEE paying for tenant improvements in the space. This lease shall terminate on March 20, 2004, subject to LESSEE'S right to extend as provided in Paragraph 5.
5. Right to Extend. Provided that LESSEE is not in default of this lease or any extension thereof, and further subject to all original agreements, considerations, covenants, and conditions, this lease may be extended by LESSEE for two additional three (3) year periods, with a 4% annual increase.
6. Holdover. Any holding over by LESSEE after expiration or termination shall not be considered as a renewal or extension of this lease. The occupancy of the Premises after the expiration or termination of this agreement constitutes a month-to-month tenancy, and all other terms and conditions of this agreement shall continue in full force and effect; provided, however, CITY shall have the right to apply a reasonable increase in rent to bring the rent to fair market value and to terminate the holdover tenancy at will.

7. Relocation. Upon sixty (60) days prior written notice, CITY reserves the right to relocate LESSEE at CITY'S expense, to alternative and reasonably comparable office space within the Building.

8. Rent. Monthly rent for the lease term and any extension period thereof shall be per the following schedule:

Monthly rent is subject to a 4% annual increase. Office space rent currently at \$1.30 per rentable square foot. Parking spaces are currently \$65.00 per space per month with five (5) spaces currently leased.

First Lease Year	\$2,969.20
Second Lease Year	\$3,087.97
Third Lease Year	\$3,211.49
Extension - 4% annual increase during each extension period.	

9. Delinquent Rent. If LESSEE fails to pay the rent when due, LESSEE will pay, in addition to the unpaid rents, five percent (5%) of the delinquent rent. If the rent is still unpaid at the end of fifteen (15) days, LESSEE shall pay an additional five percent (5%) [being a total of ten percent (15%)], which is hereby mutually agreed by the parties to be appropriate to compensate CITY for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account. Notwithstanding the foregoing, in no event shall the charge for late payments of rent be less than Ten Dollars (\$10).

10. Time and Place of Payment. Rent is due monthly in advance on or before the first day of each calendar month. All monthly rents will be prorated during the first and final months of any rental period in order to achieve payment on the first day of each calendar month. **Checks should be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 122289, San Diego, California 92112-4165, or delivered to the Office of the City Treasurer, City Operations Building, 1222 First Avenue, Third Floor, San Diego, California 92101.**

11. Security Deposit. LESSEE shall deliver to CITY with the executed copies of this lease a good faith deposit in the amount of \$3,211.49. If at the end of the term of this lease, LESSEE has performed all of the provisions of this lease, the deposit or any remaining balance shall be returned to LESSEE without interest. The security deposit may be increased by CITY proportionate to any increase in rent.

12. Services. Services and uses included in the monthly rent shall be:

a. Exclusive right to occupy space leased.

- b. Non-exclusive right to utilize common areas including reception area, conference rooms (subject to prior reservation and any applicable fees), hallways, walkways, and restrooms.
 - c. Utilities during normal business hours as defined by CITY.
 - d. Janitorial services five nights per week.
 - e. Listing in lobby directory.
13. Indemnity. LESSEE agrees to defend, indemnify, protect, and hold the CITY, its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LESSEE'S employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the development or operation of the leasehold or the work and operations to be performed under this agreement, and all expenses of investigating and defending against same; provided, however, that LESSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its agents, officers, or employees.
14. Insurance.
- a. LESSEE shall take out and maintain at all times during the term of this lease the following insurance at its sole expense:
 - i. Public liability and property damage insurance in the amount of not less than One Million Dollars (\$1,000,000) Combined Single Limit Liability with an occurrence claims form. This policy shall cover all injury or damage, including death, suffered by any party or parties from acts or failures to act by CITY or LESSEE or by authorized representatives of CITY or LESSEE on or in connection with the use or operation of the premises.
 - ii. Fire, extended coverage, and vandalism insurance policy on all insurable property on the premises in an amount to cover 100 percent of the replacement cost. Any proceeds from a loss shall be payable jointly to CITY and LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property. If there is a mortgage or trust deed on the leasehold, the proceeds may be paid to the approved mortgagee or beneficiary so long as adequate provision reasonably satisfactory to CITY has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the premises.
 - b. LESSEE'S responsibility to maintain said insurance also includes the following:

- i. **Additional Insured.** All insurance policies will name CITY as an additional insured, protect CITY against any legal costs in defending claims, and will not terminate without sixty (60) days' prior written notice to CITY. All insurance companies must be satisfactory to CITY and licensed to do business in California. All policies will be in effect on or before the first day of the lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. A copy of the insurance policy will remain on file with CITY during the entire term of the lease. At least thirty (30) days prior to the expiration of each policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this lease.
- ii. **Modification.** CITY, at its discretion, may require the revision of amounts and coverages at any time during the term by giving LESSEE sixty (60) days' prior written notice. CITY'S requirements shall be designed to assure protection from and against the kind and extent of risk existing on the premises. LESSEE also agrees to obtain any additional insurance required by CITY for new improvements, in order to meet the requirements of this lease.
- iii. **Accident Reports.** LESSEE shall report to CITY any accident causing more than Ten Thousand Dollars (\$10,000) worth of property damage or any serious injury to persons on the premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses, and other pertinent information.
- iv. **Failure to Comply.** If LESSEE fails or refuses to take out and maintain the required insurance or fails to provide the proof of coverage, CITY has the right to obtain the insurance. LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, names of the insurer(s), and rate of interest. Said reimbursement and interest shall be paid by LESSEE on the first (1st) day of the month following the notice of payment by CITY.

Notwithstanding the preceding provisions of this Subsection (iv), if LESSEE fails or refuses to take out or maintain insurance as required in this lease or fails to provide the proof of insurance, CITY has the right to declare this lease in default without further notice to LESSEE, and CITY shall be entitled to exercise all legal remedies in the event of such default.

15. Prohibited Uses. LESSEE may not do the following, unless approved in writing in advance by CITY: (a) utilize the space for anything but the use stated in Paragraph 3; (b) make any alterations or changes to the leased Premises of which the leased space is a part; (c) effect any repairs amounting to more than \$5,000 per instance; (d) suffer or permit any liens or encumbrances to be placed on CITY's property; (e) operate or utilize any machine or device which results in excess use of utilities; (f) utilize the Premises in any manner which may create a health, safety, or fire hazard; (g) fail to pay all taxes assessed against LESSEE, its personal property, the conduct of its business, etc.; (h) fail to obey the Building rules and regulations (which may be changed from time to time, a copy of which is made a part of this lease as Exhibit "B");

16. Default.

In the event that:

- a. LESSEE shall default in the performance of any covenant or condition required by this lease to be performed by LESSEE and shall fail to cure said default within thirty (30) days following written notice thereof from CITY; or if any such default is not curable within thirty (30) days, and LESSEE shall fail to commence to cure the default(s) within said thirty-day period and diligently pursue such cure to completion; or
- b. LESSEE shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law; or
- c. LESSEE shall be adjudicated a bankrupt; or
- d. LESSEE shall make a general assignment for the benefit of creditors;

then CITY may, at its option, without further notice or demand upon LESSEE or upon any person claiming rights through LESSEE, immediately terminate this lease and all rights of LESSEE and of all persons claiming rights through LESSEE to the premises or to possession thereof; and CITY may enter and take possession of the premises. Provided, however, in the event that any default described in this section hereinabove is not curable within thirty (30) days after notice to LESSEE, CITY shall not terminate this lease pursuant to the default if LESSEE immediately commences to cure the default and diligently pursues such cure to completion.

- e. Remedies of Lender. Should the default(s) be noncurable by LESSEE, then any lender holding a beneficial interest in the leasehold, whose qualifications as an assignee have been approved by CITY, shall have the absolute right to substitute itself to the estate of LESSEE hereunder and to commence performance of this lease. If such mortgagee or beneficiary shall give notice in writing of its election to so substitute itself within the thirty-day period after receiving written notice by CITY of the default, and the default, if curable, is cured by such mortgagee or

beneficiary, then this lease shall not terminate pursuant to the default. In that event, CITY expressly consents to the substitution and authorizes the mortgagee or beneficiary to perform under this lease with all the rights, privileges, and obligations of LESSEE, subject to cure of the default, if possible, by mortgagee or beneficiary. LESSEE expressly agrees to assign all its interest in and to its leasehold estate to mortgagee or beneficiary in that event.

- f. Abandonment by LESSEE. Even though LESSEE has breached the lease and abandoned the property, this lease shall continue in effect for so long as CITY does not terminate this lease, and CITY may enforce all its rights and remedies hereunder, including but not limited to the right to recover the rent as it becomes due, plus damages.
 - g. Waiver. Any CITY waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the City Manager in order to constitute a valid and binding waiver. CITY delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. CITY'S acceptance of any rents is not a waiver of any default preceding the rent payment. CITY and LESSEE specifically agree that the property constituting the premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego and that any failure by the City Manager or CITY staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY shall at all times, have the legal right to require the cure of any default when and as such defaults are discovered or when and as the City Council directs the City Manager to take action or require the cure of any default after such default is brought to the attention of the City Council by the City Manager or by any concerned citizen.
17. Keys. CITY shall supply keys to LESSEE's space. LESSEE may not duplicate keys. If a key is lost, LESSEE must apply to the CITY for additional keys or replacement keys. Lessee shall reimburse the City for the replacement key cost. If LESSEE loses a key, he takes the risk of the finder. If LESSEE desires, the lock can be changed but at the expense of the LESSEE. If the lost key affects access to other tenants, CITY may change the lock and charge the LESSEE for costs associated with changing of locks. Upon lease termination, all keys must be surrendered by LESSEE to CITY, at the office of the building manager.
18. Attorney's Fees. In the event of any action or proceedings brought by either party against the other under this lease, the prevailing party shall be entitled to recover the fees for its attorneys in such action or proceeding, in such amount as the court may adjudge reasonable as attorney's fees. In the event the CITY intervenes in or becomes a party or is made a party to any action or proceeding arising in connection with this lease in order to protect its rights, then LESSEE will pay the CITY the fees of CITY's attorneys therein as fixed by the court.

19. Possession by LESSEE. CITY has made no promise to alter or improve the Premises or made any representation concerning the condition thereof. By taking possession of the Premises, LESSEE acknowledges the premises are in good order and condition and agrees to take possession "as is". LESSEE will maintain the Premises in good condition and repair, and will not cause or permit the Premises to be damaged or defaced. LESSEE will make no alterations or additions to the Premises without CITY's prior written consent. LESSEE will return the Premises and any furniture contracted for hereunder at the end of the term (or, when appropriate, at the end of each usage) in as good condition and repair as when LESSEE received the Premises or such furniture, as the case may be, normal wear and tear excepted.
20. Acceptance of Premises. LESSEE hereby acknowledges: (a) that it has been advised by CITY to satisfy itself with respect to the condition of the Premises (including but not limited to electrical and fire sprinkler systems, security, asbestos, air quality, and other environmental aspects, seismic and earthquake requirements, and compliance with the Americans with Disabilities Act and applicable zoning, municipal, county, state and federal laws, ordinances and regulations and any covenants or restrictions of record (collectively "Applicable Laws") and the present and future suitability of the Premises for LESSEE's intended use; (b) that LESSEE has made such investigation as it deems necessary with reference to such matters, is satisfied with reference thereto, and assumes all responsibility therefor as the same relate to LESSEE's occupancy of the Premises and/or the terms of the lease; and (c) that neither CITY, nor any of CITY's agents, has made any oral or written representation or warranties with respect to said matters other than as set forth in this lease.
21. Asbestos Disclosure. CITY discloses to LESSEE that portions of the structural components of the premises may contain asbestos. LESSEE acknowledges having received notice from CITY of the presence of such asbestos in accordance with Health and Safety Code Section 25915. LESSEE shall disclose the existence of asbestos on the leased premises, as required by Health and Safety Code Section 25915. LESSEE agrees to indemnify and hold CITY harmless from any loss or claim which may result from the existence of asbestos on the leased premises.
22. Asbestos.
- a. Improvement & Repair - CITY and LESSEE agree that the party who undertakes the improvements and repairs, as provided for in this Lease Agreement, shall also be responsible for any asbestos removal, management or containment and all asbestos costs associated with such improvements.
 - b. General Guidelines - Such asbestos removal or management shall be conducted in accordance with all applicable laws and as approved by CITY.

CITY reserves the right to inspect any work undertaken by LESSEE pursuant to this agreement and to station supervisory personnel at the work site, at CITY's

sole discretion, to ensure that LESSEE's obligations are carried out. Both parties shall coordinate any Repair and Improvements with each other and, except in the event of an emergency, the party undertaking a Repair shall provide prior written notice to the other within 15 days of undertaking said repair.

- c. Asbestos Disturbance - The LESSEE and CITY shall be responsible for all costs relating to any disturbance of asbestos-containing materials caused by their respective action.

23. Common Areas

- a. Definition - The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Building and interior utility raceways within the Premises that are provided and designated by the CITY from time to time for the general non-exclusive use by CITY, LESSEE and other lessees of the Building.
- b. LESSEE's Rights - CITY hereby grants to LESSEE during the term of this lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by CITY under the terms hereof or under the terms of any rules and regulations or right to store any property, temporarily or permanently, in the Common Areas.
- c. Rules and Regulations as Exhibit B - CITY or such other person(s) as CITY may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable Rules and Regulations with respect thereto. LESSEE agrees to abide by and conform to all such Rules and Regulations, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. CITY shall not be responsible to LESSEE for the non-compliance with said rules and regulations by other lessees of the Building.
- d. Changes - CITY shall have the right, in CITY's sole discretion, from time to time:
 - i. To make changes to the Common Area, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking area, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;
 - ii. To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;
 - iii. To add additional improvements to the Common Areas;

- iv. To use the Common Areas while engaged in making additional improvements, repairs, or alterations to the Building or any portion thereof; and
- v. To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Building as CITY may, in exercise of sound business judgement, deem to be appropriate.

24. Assignment and Subletting. LESSEE shall not assign this lease or any interest therein and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person, except employees, agents, and guests of LESSEE, to use or occupy the Premises or any part thereof, without the prior written consent of the City Manager in each instance. A consent to assignment, subletting, occupation, or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. Any such assignment or subletting without such consent shall be void and shall, at the option of CITY, terminate this lease. This lease shall not, nor shall any interest therein, be assignable as to the interest of LESSEE by operation of law, without the written consent of the City Manager.

"Assignment" for the purposes of this clause shall include any transfer of any ownership interest in this lease by LESSEE or by any partners, principals, or stockholders, as the case may be, from the original LESSEE, its general partners, or principals.

Approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that it will assume the rights and obligations thereby assigned or subleased and that it will keep and perform all covenants, conditions, and provisions of this agreement which are applicable to the rights acquired. CITY may require, as a condition to approval of any sublease of the majority portion of the leasehold or any assignment, that the LESSEE pay additional consideration to CITY, as determined by the City Manager commencing on the effective date of such proposed sublease of the majority portion of the leasehold or assignment, and may further require that this lease or the requested sublease otherwise be revised to comply with standard CITY lease requirements that are then current.

Pursuant to City Charter Section 225, the City Manager must review and approve every person or entity which will have an interest in this lease as a sublessee or assignee. The City Manager's approval will not be unreasonably withheld, provided all such persons and entities are of good character and reputation.

25. Successors and Assigns. The covenants and conditions herein contained shall, subject to the provisions restricting LESSEE's assignments and subletting, apply to and bind the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.
26. Nondiscrimination. LESSEE agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status,

national origin, age, marital status, or physical disability in LESSEE'S use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

27. CITY Approval. The approval or consent of CITY, wherever required in this lease, shall mean the written approval or consent of the City Manager unless otherwise specified.
28. Equal Opportunity. LESSEE will comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. LESSEE will not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition, or place of birth. Upon CITY'S request, LESSEE will submit a current Workforce Report and, if required, an Equal Opportunity Plan which set forth the actions that LESSEE will take to achieve the CITY'S goals for the employment of African Americans, American Indians, Asians, Filipinos, Latinos, women, and people with disabilities. Further, LESSEE will cause the foregoing provisions to be inserted in all subleases and all subcontracts for any work covered by this lease so that such provisions will be binding upon each sublessee and subcontractor.

LESSEE understands that failure to comply with the requirements listed above and/or submitting false information in response to these requirements may result in termination of this lease and debarment from participating in CITY contracts for a period of not less than one (1) year.

29. Taxes. LESSEE agrees to pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Premises, including the land, any Buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE or levied by reason of the business or other LESSEE activities related to the leased Premises, including any licenses or permits. LESSEE recognizes and agrees that this lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes levied on such interest, and that LESSEE shall pay all such possessory interest taxes. LESSEE further agrees that payment for such taxes, fees and assessments will not reduce any rent due CITY.
30. Disabled Access Compliance. LESSEE agrees to comply with Title 24 of the California Code of Regulations (Building Code) as defined in California Health and Safety Code (title 24), the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. LESSEE's compliance shall include but not necessarily be limited to the following:
 - a. LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and

privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

- b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of LESSEE.
- c. LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- d. Where required by law, Lessee shall comply with City's disabled access requirements by bringing up to code and making accessible any areas of the premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost to Lessee.
- e. LESSEE shall include language in each sublease agreement which indicates the sublessee's agreement to abide by the foregoing provisions. LESSEE and sublessee shall be individually responsible for their own ADA employment programs.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this lease.

31. Signature Page.

IN WITNESS WHEREOF, this lease agreement is executed by CITY, acting by and through its City Manager, and by LESSEE, acting by and through its lawfully authorized officers. This Lease is subject to City Council approval.

THE CITY OF SAN DIEGO, a California
municipal corporation

Date Feb. 26, 2001

By Jane E. Vickers
Jane E. Vickers, Deputy Director
Real Estate Assets Department

3RD WORKS, LLC

Date 2/16/01

By R. Scott Aishton
R. Scott Aishton, President

APPROVED AS TO FORM AND LEGALITY this 14th day of May, 2001.

CASEY GWINN, City Attorney

By Debra J. Bevier
Debra J. Bevier, Deputy City Attorney

DML/jmj
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EXHIBIT B

RULES AND REGULATIONS

The sidewalks, entrances, halls, corridors, elevators and stairways of the building and project shall not be obstructed or used as a waiting or lounging place by LESSEE, their agents, servants, employees, invitees, licensees and visitors. All entrance doors leading from any leased premises to the hallways are to be kept closed at all times.

1. CITY reserves the right to refuse admittance to the building between the hours of 5:30 p.m. and 7:00 a.m., Monday through Friday and all day Saturday and Sunday to any person not producing both a key to the lease premises and/or a pass issued by CITY. In case of invasion, riot, public excitement or other commotion, CITY also reserves the right to prevent access to the building during the continuance of same. CITY shall in no case be liable for damages for the admission or exclusion of any person to or from the building. CITY reserves the right to exclude or expel from the building any person who, in CITY's judgement, is intoxicated or under the influence of liquor or drugs or who is in violation of any of the Rules and Regulations of the building.
2. CITY will furnish each LESSEE with keys to each door lock on the leased premises, and CITY may make a reasonable charge for any additional keys and access cards requested by any LESSEE. No LESSEE shall have any keys made for the leased premises; nor shall any LESSEE alter any lock, or install new or additional locks or bolts, on any door without the prior written approval of CITY. In the event of such alteration for installation approved by CITY, the LESSEE making such alteration shall supply CITY with a key for any such lock or bolt. Each LESSEE, upon the expiration or termination of its tenancy, shall deliver to CITY all keys and access cards in any such LESSEE's possession for all locks and bolts in the building and in the event of loss of any keys or cards so furnished, shall pay CITY therefor.
3. In order that the building may be kept in a state of cleanliness, each LESSEE shall during the term of each respective lease, permit CITY's employees (or CITY's agent's employees) to take care of and clean the leased premises and LESSEE shall not employ any person(s) other than CITY's employees (or CITY's agent's employees) for such purpose. LESSEE shall not cause any unnecessary labor by reason of such LESSEE's carelessness or indifference in the preservation of good order and cleanliness of the leased premises. In the event LESSEE must dispose of crates, boxes, etc. which will not fit into office waste paper baskets, it will be the responsibility of LESSEE to dispose of same. In no event shall LESSEE set such items in the public hallways or other areas of the building or garage facility, excepting LESSEE's own leased premises, for disposal. LESSEE shall store all of its trash and garbage within its leased premises or in any other facilities provided by CITY. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by CITY.
4. CITY reserves the right to prescribe the date, time, method and conditions that any personal property, equipment, trade fixtures, merchandise and other similar items shall be delivered to or removed from the building. No iron safe or other heavy or bulky object

shall be delivered to or removed from the building, except by experienced safe men, movers or riggers approved in writing by CITY. All damage done to the building by the delivery or removal of such items, or by reason of their presence in the building, shall be paid to CITY, immediately upon demand, by the LESSEE by, through, or under whom such damage was done. There shall not be used in any space, or in the public halls of the building, either by LESSEE or by jobbers or others, in the delivery or receipt of merchandise, any hand trucks, except those equipped with rubber tires. The building freight elevator(s) shall be available for use by all LESSEES in the building, subject to such reasonable scheduling as CITY, in its discretion, shall deem appropriate. LESSEE initial move-in and subsequent deliveries of bulky items, such as furniture, safes and similar items shall, unless otherwise agreed in writing by CITY, be made during the hours of 5:30 p.m. to 7:00 a.m. or on Saturday or Sunday. Deliveries during normal office hours shall be limited to normal office supplies and other small items. No delivery shall be made which impede or interfere with other LESSEES or the operations of the building.

5. The walls, partitions, skylights, windows, doors and transoms that reflect or admit light into passageways or into any other part of the building shall not be covered or obstructed by LESSEE.
6. The toilet rooms, toilets, urinals, wash bowls and water apparatus shall not be used for any purpose other than for those for which they were constructed or installed, and no sweepings, rubbish, chemicals, or other unsuitable substances shall be thrown or placed therein. The expense of any breakage, stoppage or damage resulting from violation(s) of this rule shall be borne by the LESSEE by whom, or by whose agents, employees, invitees, licensees or visitors, such breakage, stoppage or damage shall have been caused.
7. No sign, name, placard, advertisement or notice visible from the exterior of any leased premises, shall be inscribed, painted or affixed by any LESSEE on any part of the building or Building without the prior written approval of CITY. All signs or letterings on doors, or otherwise, approved by CITY shall be inscribed, painted or affixed at the sole cost and expense of the LESSEE, by a person approved by CITY. A directory containing the names of all LESSEES in the building shall be provided by CITY at an appropriate place on the first floor of the building.
8. No signaling, telegraphic or telephonic instruments or devices, burglar alarm systems or similar service, or other wire, instruments or devices, shall be installed in connection with the leased premises without the prior written approval of CITY. Such installations, and the boring or cutting for wires, shall be made at the sole cost and expense of the LESSEE and under the control and direction of CITY. CITY retains, in all cases, the right to require (i) the installation and use of such electrical protecting devices that prevent the transmission of excessive currents of electricity into or through the building, (ii) the changing of wires and of their installation and arrangement underground or otherwise as CITY may direct and (ii) compliance on the part of all using or seeking access to such wires with such rules as CITY may establish relating thereto. All such wires used by LESSEE must be clearly tagged at the distribution boards and junction boxes and

elsewhere in the building, with (i) the number of the leased premises to which said wires lead, (ii) the purpose for which said wires are used, and (ii) the name of the company operating same.

9. LESSEE, its agents, servants or employees, shall not (a) go on the roof of the building, (b) use any additional method of heating or air conditioning the leased premises, (c) sweep or throw any dirt or other substance from the leased premises into any of the halls, corridors, elevators, or stairways of the building, (d) bring in or keep in or about the leased premises any vehicles or animals of any kind, (e) install any radio or television antennae or any other device or item on the roof, exterior walls, windows or window sills of the building, (f) place objects against glass partitions, doors or windows which would be unsightly from the interior or exterior of the building, (g) use the leased premises for any manufacturing, storage or sale of merchandise or property of any kind, (h) cause or permit unusual or objectionable odor to be produced or permeate from the leased premises, including, without limitation, duplicating or printing equipment fumes, and (i) install or operate any vending machines in the leased premises without the written consent of CITY. LESSEE, its agents, servants and employees, invitees, licensees, or visitors shall not permit the operation of any musical or sound producing instruments or device which may be heard outside the leased premises, building, or garage facility, or which may emit electrical waves which will impair radio or television broadcast or reception from or into the building.
10. LESSEE shall not store or use in any leased premises any (a) ether, naphtha, phosphorous, benzol, gasoline, benzine, petroleum, crude or refined earth or coal oils, flashlight power, kerosene or camphene, (b) any other flammable, combustible, explosive or illuminating fluid, gas or material of any kind, and (c) any other fluid, gas or material of any kind having an offensive odor, without the prior written consent of CITY.
11. No canvassing, soliciting, distribution of hand bills or other written material, or peddling shall be permitted in the building, and LESSEE shall cooperate with CITY in presentation and elimination of same.
12. LESSEE shall give CITY prompt notice of all accidents to or defects in air conditioning equipment, plumbing, electrical facilities or any part or appurtenances of the leased premises.
13. If any leased premises become infested with vermin, the LESSEE, at its sole cost and expense, shall cause its premises to be exterminated from time to time to the satisfaction of the CITY and shall employ such exterminators as shall be approved by CITY.
14. No curtains, blinds, shades, screens, awnings or other coverings or projections of any nature shall be attached to or hung in, or used in connection with any door, window or wall of the premises of the building without the prior written consent of CITY.
15. LESSEE shall not place a load upon any floor of the leased premises which exceeds the load per square foot which such floor was designated to carry and which is allowed by

law. CITY shall have right to prescribe weight, size and position of all equipment, materials, furniture or other property brought into the building. Heavy objects shall, if considered necessary by CITY, stand on such platform as determined by CITY to be necessary to properly distribute the weight, which platform shall be provided at LESSEE's expense. Business machines and mechanical equipment belonging to LESSEE, which cause noise or vibration that may be transmitted to the structure of the building or to any space therein to such a degree as to be objectionable to CITY or to any LESSEE in the building, shall be placed and maintained by LESSEE, at LESSEE's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. CITY will not be responsible for loss of, or damage to, any such equipment or other property for any cause, and all damage done to the building by maintaining or moving such equipment or other property shall be repaired at the expense of LESSEE.

16. LESSEE shall not waste electricity, water or air conditioning and agrees to cooperate with CITY to assure the most effective operation of the building's heat and air conditioning and to comply with the governmental energy saving rules, laws or regulations of which LESSEE has actual notice, and shall refrain from attempting to adjust controls. LESSEE shall keep corridors closed, shall keep window coverings closed at the end of each business day.
17. CITY shall have the right to prohibit any advertising by LESSEE which, in CITY's opinion, tends to impair the reputation of CITY or of the building, or its desirability as an office building for existing or prospective LESSEE who require the highest standards of integrity and respectability, and upon written notice from CITY, LESSEE shall immediately refrain from or discontinue such advertising.
18. Whenever the word "LESSEE" occurs, it is understood and agreed that it shall also mean LESSEE's associates, employees, agents and any other person entering the building or the leased premises under the express or implied invitation of LESSEE. LESSEE shall cooperate with CITY to assure compliance by all such parties with rules and regulations.
19. CITY reserves the right to make reasonable amendments, modifications and additions to the rules and regulations heretofore set forth, and to make additional reasonable rules and regulations, as in CITY's sole judgement may from time to time be needed for the safety, care, cleanliness and preservation or good order of the building.
20. The requirement of LESSEE will be attended to only upon application at the office of the building. Employees of CITY shall not perform any work or do anything outside of their regular duties unless under special instructions from CITY, and no employee will admit any person (LESSEE or otherwise) to any office without specific instructions from CITY.
21. CITY shall have the right, exercisable without notice and without liability to LESSEE, to change the name and the street address of the building of which the premises are a part. CITY will pay for all reasonable cost incurred by LESSEE as a result of changing the street address of the building unless the change is requested by an authorized governmental agency.

22. LESSEE shall not obtain for use upon the leased premises ice, towel or other similar services or accept barbering or bootblackening services on the leased premises, except from persons authorized by CITY and at the hours and under regulations fixed by CITY.
23. CITY may waive any one or more of these rules and regulations for the benefit of any LESSEE, but no such waiver by CITY shall be construed as a waiver of such rules and regulations in favor of LESSEE or any other LESSEE nor prevent CITY from thereafter enforcing any such rules and regulations against any or all of the LESSEE of the building.
24. LESSEE assumes any and all responsibility for protecting its leased premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the leased premises secured. LESSEE shall comply with all safety and fire protection evacuation procedures and regulations established by CITY or any governmental agency.

ORDINANCE NUMBER O- 18940 (NEW SERIES)

ADOPTED ON MAY 07 2001

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO
EXECUTE AN OFFICE-SPACE LEASE AGREEMENT WITH
3RD WORKS, LLC, A CALIFORNIA CORPORATION.

WHEREAS, the City of San Diego and 3rd Works, LLC, a California corporation ("3rd Works") have negotiated an office-space lease for space in the Crabtree Building, located at 303 A Street, Suite 403. The space to be leased by 3rd Works consists of approximately 2,034 rentable square feet and five (5) reserved parking spaces. The initial base rent is \$2,969.20 per month, which includes office-space rent at \$1.30 per square foot and five (5) reserved parking spaces at \$65.00 per space, per month; and

WHEREAS, the lease shall be for a term of three (3) years, commencing on March 21, 2001, and terminating on March 20, 2004, and shall include the option to extend the lease for two (2) additional three (3) year periods providing that 3rd Works is not in default; and

WHEREAS, the rent shall be adjusted annually by a fixed four percent (4%) increase, during both the initial term of the lease and the option period, if exercised; NOW, THEREFORE,

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

Section 1. That the City Manager is authorized to execute, for and on behalf of The City of San Diego, a Lease Agreement with 3rd Works for space in the Crabtree Building, located at 303 A Street, Suite 403. The space to be leased consists of approximately 2,034 rentable square feet and five (5) reserved parking spaces. The initial rent is \$2,969.20 per month, which includes

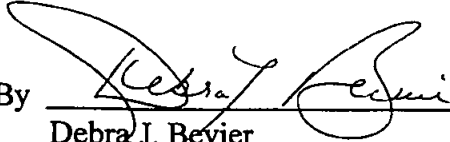
office space rent at \$1.30 per square foot and five (5) reserved parking spaces at \$65.00 per space per month, commencing March 21, 2001, and terminating March 20, 2004, under the terms and conditions set forth in that Lease Agreement on file in the office of the City Clerk as Document No. OO- **18940**.

Section 2. That the total annual rent paid to the City for the first year will be \$29,403.73, which shall be deposited into the General Fund.

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

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

APPROVED: CASEY GWINN, City Attorney

By 
Debra J. Bevier
Deputy City Attorney

DJB:jc
04/06/01
Or.Dept:REA
Aud.Cert:N/A
O-2001-133
Form=o&t.frm

MAY 07 2001

Passed and adopted by the Council of The City of San Diego on _____ by the following vote:

YEAS: PETERS, WEAR, ATKINS, STEVENS, MAIENSCHIN, MADAFFER

NAYS: INZUNZA, MAYOR MURPHY.

NOT PRESENT: NONE.

VACANT: DISTRICT 6.

AUTHENTICATED BY:

DICK MURPHY

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(Seal)

By: Mary-L. Cepeda Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. O- 18940 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on APR 23 2001 and on MAY 07 2001.

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

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(Seal)

By: Mary-L. Cepeda, Deputy

PARKING GARAGE

