



Real Estate Assets Department
SDC003

Document Type

LEGAL DOCUMENTS



Sub - Category

AGREEMENTS





THE CITY OF SAN DIEGO

January 11, 1999

CERTIFIED MAIL
P 413 456 214

Mr. Phonevilay Lienekhamsook
4202 National Ave.
San Diego, CA 92113

Subject: Coin-Operated Water Processing Machines Installed at 4202 National Avenue in San Diego

As we agreed, retroactively beginning September 1, 1998, (date the City acquired the property at 4202 National Avenue), and throughout the entire term of your current agreement with the water vendor, the revenue derived from two above-mentioned water processing machines will be divided equally between you and the City. When you remit our invoices, please make sure that copies of commission checks from the water vendor are attached to your checks.

Please sign, date, and return the original copy of this letter to my attention. For further information on this matter, call me at 235-5248.

Sincerely,

V. Balotsky

VLADIMIR BALOTSKY
Property Agent

THE ABOVE ACKNOWLEDGED AND ACCEPTED THIS 08th DAY 11-1, 1999

By *Phonevilay Lienekhamsook*
Lienekhamsook, Phonevilay
D.B.A. Muang Lao Market



Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199
Tel (619) 236-6020 Fax (619) 236-6706

RENTAL AGREEMENT

This rental agreement, hereinafter designated as "AGREEMENT" is made in duplicate by and between THE CITY OF SAN DIEGO, through its City Manager, hereinafter designated as "CITY," and PHONEVILAY LIENEKHAMSOUK, d.b.a. MUANG LAO MARKET, the undersigned, hereinafter designated as "TENANT," who hereby agrees to rent property owned by THE CITY OF SAN DIEGO, described in Exhibit "A", and located at 4202 National Avenue, San Diego, CA 92113, hereinafter designated as "PREMISES," at a rental of \$1,400 per month, payable monthly in advance, on the first day of each calendar month beginning at the commencement date of the AGREEMENT.

TENANT hereby approves, agrees and consents to the following terms and conditions:

1. TENANT shall use the PREMISES solely for the purpose of operating and maintaining a grocery store.
2. The renting of the above PREMISES shall be month-to-month commencing on September 1, 1998. Provided, however, that this AGREEMENT may be terminated at any time by TENANT upon 30 days advance written notice to CITY or by CITY upon 90 days advance written notice to TENANT. If such notice is given by CITY exclusively pursuant to this paragraph, CITY shall also tender to the TENANT a proportional part of any rent paid in advance by TENANT. TENANT agrees to pay said rent to THE CITY OF SAN DIEGO, City Treasurer, 1222 First Avenue, San Diego, California 92101-4155, in advance on the first day of each month so long as tenancy continues.

In the event TENANT fails to pay the applicable rents when due as previously provided herein, then TENANT shall pay CITY in addition to the delinquent rent, a sum of money equal to Five Percent (5%) of said delinquent rent; however, in the event said delinquent rent is still unpaid after fifteen (15) days of becoming delinquent, then TENANT shall pay CITY, instead of said Five Percent (5%), a sum of money equal to Ten Percent (10%) of said delinquent rent. It is the intent of this provision that CITY shall be compensated by such additional sum for loss resulting from rental delinquency including costs to CITY for servicing the delinquent account. The Real Estate Assets Director of CITY may for good cause waive any such delinquency compensation charge upon written application of TENANT prior to the delinquent period. The rights of CITY as provided for in this paragraph are in addition to the CITY'S rights, at the option of the Real Estate Assets Director, to immediately terminate this AGREEMENT for failure to pay rent promptly when due.

3. TENANT shall take out and maintain at all times during the term of this AGREEMENT the following insurance at its sole expense:

a. 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 TENANT or by authorized representatives of CITY or TENANT on or in connection with the use or operation of the PREMISES.

b. Conditions. All insurance policies will name CITY as an additional insured, protect CITY against any legal costs in defending claims, and will not terminate without thirty (30) 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 AGREEMENT. A copy of the insurance policy will remain on file with CITY during the entire term of the AGREEMENT. At least thirty (30) days prior to the expiration of each policy, TENANT shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this AGREEMENT.

c. Modification. CITY, at its discretion, may require the revision of amounts and coverages at any time during the term by giving TENANT 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. TENANT also agrees to obtain any additional insurance required by CITY for new improvements, in order to meet the requirements of this AGREEMENT.

d. Accident Reports. TENANT 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.

4. TENANT shall pay promptly when due all utility bills applicable to the PREMISES during occupation and agrees to save CITY harmless therefrom.

5. TENANT shall not let, sublet or encumber the whole or any portion of the PREMISES, nor assign this tenancy to a third party, nor make or suffer any alterations to be made in or on said PREMISES, without first obtaining the written consent of CITY. In the event of a breach of this condition, CITY shall have the power to immediately declare this AGREEMENT terminated and will thereupon be entitled to immediate possession of the PREMISES.

6. Upon vacating PREMISES, TENANT agrees to leave said PREMISES in as good condition as existed as of the day possession of the PREMISES was taken allowing for ordinary wear and tear incurred through normal usage during occupancy; and shall reimburse CITY for any damage done to said PREMISES, caused by TENANT'S occupation or tenancy, other than that due to normal use.

7. TENANT shall keep the PREMISES, including sidewalks, in a neat, clean, safe and orderly condition at all times during occupancy, and shall not permit rubbish, garbage, etc., to accumulate at any time; shall not commit, suffer to permit any waste of said PREMISES or any acts to be done in violation of any laws or ordinances; shall not use or permit the use of said PREMISES for any illegal or immoral purposes; and shall comply with all applicable laws and local ordinances concerning said PREMISES and the use thereof.

8. TENANT shall vacate said PREMISES within 90 days after receipt of a notice to do so from CITY; and failing to vacate as herein provided, TENANT agrees that CITY, or its authorized agents, may enter upon said PREMISES and remove all personal property therefrom and in this event TENANT waives any and all claims of damages against CITY, its agent or employees. Nothing herein shall be deemed a waiver of any rights of CITY to demand and obtain possession of said PREMISES in accordance with law in the event of a violation on TENANT'S part of any of the terms or conditions hereof.

9. This AGREEMENT is made upon the express condition that the CITY, its officers, agents and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including TENANT, or property of any kind whatsoever and to whomsoever belonging, including TENANT, from any cause or causes whatsoever while in, upon or in any way connected with the said demised PREMISES or the sidewalks or public ways adjacent thereto during the term of this AGREEMENT or any extension hereof or any occupancy hereunder, and TENANT hereby covenants and agrees to indemnify and save harmless the CITY, its officers, agents and employees from all liability, loss, costs, expense and obligations on account of or arising out of any such injuries or losses however occurring.

10. In the event there is any prior existing lease or Rental Agreement between TENANT and CITY (or its predecessor in interest) covering the subject PREMISES, it is agreed and understood that this AGREEMENT cancels and terminates said prior lease or Rental Agreement as of the commencement date of this AGREEMENT.

11. No repairs of any nature will be performed by the CITY unless deemed necessary and in the best interest of the CITY.

12. Should it become necessary for CITY to commence legal proceedings to recover possession, or enforce any other provision of this AGREEMENT, the prevailing parties will be entitled to legal costs in connection therewith, including a reasonable sum as attorney's fees as determined by the court. The parties agree that the law of the State of California shall be used in interpreting this AGREEMENT and will govern all disputes under this AGREEMENT and will determine all rights thereunder. At the option of either party, venue of any action involving this AGREEMENT may be in, or changed to the County of San Diego or the Southern District of California. Personal service either within or without the State of California shall be sufficient to give personal jurisdiction to any court in which an action is filed for litigation of rights under this AGREEMENT.

13. TENANT acknowledges that his interest may be subject to a possible possessory interest tax that the County may impose on such interest and agrees that any such tax shall be the liability of and be paid by TENANT before becoming delinquent.

14. The PREMISES shall not be used for any illegal purposes by TENANT or any other persons; nor shall the TENANT create any nuisance or allow any other persons to create a nuisance on the leased PREMISES or any part thereof. If in the opinion of the Real Estate Assets Director, either of these conditions occur, the Real Estate Assets Director shall have the right to immediately terminate this tenancy.

15. CITY reserves, and shall always have the right, but not obligation, to enter said PREMISES for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the PREMISES, or to inspect the operations conducted thereon.

16. Any and all improvements, structures and installation to the PREMISES, except removable furniture and trade fixtures shall at termination be deemed to be part of the PREMISES and shall become at CITY'S option, CITY'S property, free of all liens and claims.

17. No improvements, structures, or installations shall be constructed on the PREMISES, and the PREMISES may not be altered by TENANT without written approval by the CITY.

18. TENANT shall at all times save CITY free, harmless and indemnify CITY against all claims for labor or materials in connection with operations, improvements, alterations, or repairs on the PREMISES and the costs of defending against such claims, including reasonably attorney's fees.

19. TENANT 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 TENANT'S use of PREMISES, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

20. CITY shall have the right to review the rental rate of this agreement and may increase rent, at any time, upon 30 days' written notice.

21. The terms of this agreement may be amended or revised at any time by written memorandum signed by both TENANT and CITY, and said memorandum shall become a part of the original agreement and shall operate with the same force and effect as the original agreement.

22. TENANT by remaining on the PREMISES and renting the same from the CITY retains only those benefits which would have accrued to his benefit had TENANT relocated at the time of the CITY'S acquisition of the PREMISES.

TENANT

THE CITY OF SAN DIEGO

By

By

By

By

Supervising Property Agent

APPROVED as to form and legality this 1st day of October, 1998.

CASEY GWINN, City Attorney

By

Deputy City Attorney

VEB:jmj-n

9/16/98

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FLOOR PLAN

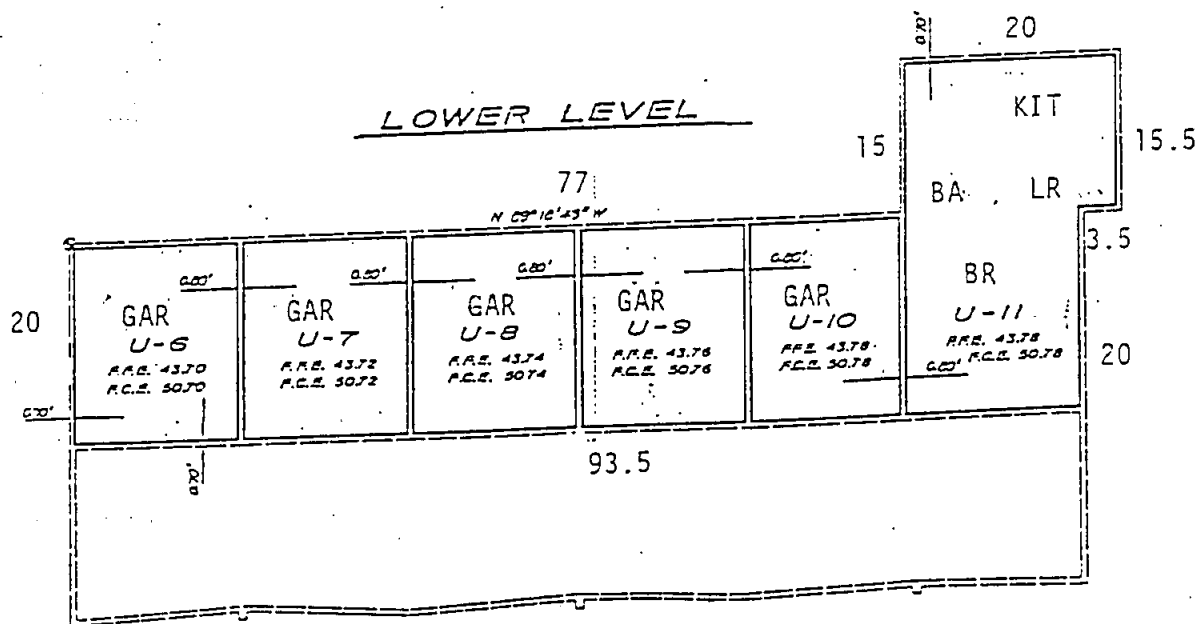
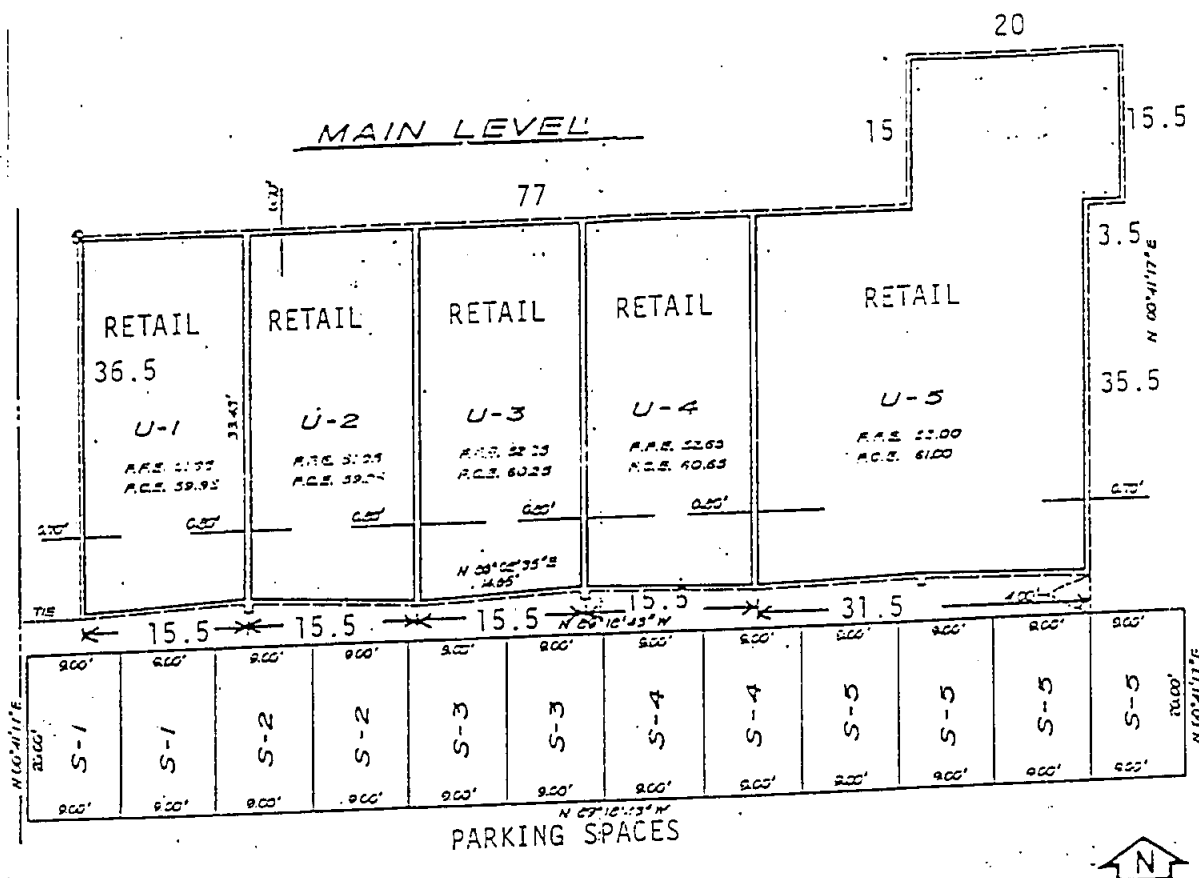


EXHIBIT A

ASSIGNMENT OF LEASE

FOR VALUE RECEIVED, I, the undersigned do hereby assign, transfer and set over under THE CITY OF SAN DIEGO, a municipal corporation, all my right, title and interest in and to those certain leases listed on Exhibit A attached hereto and made a part hereof by and between the undersigned, as Lessor, covering that certain property situated in the City of San Diego, County of San Diego, State of California described as follows:

Parcel A:

Parcel 2 of Parcel Map No. 9934, in the City of San Diego, County of San Diego, State of California, said Parcel Map being filed in the Office of the County Recorder of San Diego County, on April 21, 1980.

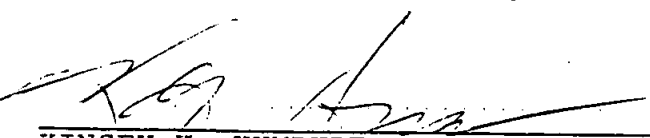
Parcel B:

An easement and right of way for ingress and egress, for road purposes over, under, along and across a strip of land 15 feet in width in Parcel 4 of Parcel Map No. 9934, in the County of San Diego, State of California, said Map being filed in the Office of the County Recorder of San Diego County, April 21, 1980, the Westerly and Southerly line of which is more particularly described as follows:

Beginning at a point in the Northerly line of said Parcel 4, 12 feet Easterly from the Northwest corner thereof; thence Southwesterly along a line that bears North 15°57'48" East 123.03 feet, more or less, to a point in the Southerly line of said land; thence Easterly along said Southerly line 117.21 feet, thence Southerly along a line that bears North 0°30'40" East 17 feet to the most Southerly line of said Parcel 4.

Together with all my right, title and interest in and to prepaid rent and/or security deposit(s) as set forth on each lease.

Dated the 21st day of August, 1998



KINSEY H. HUMPHREY