



Real Estate Assets Department
SDC003

I & G 525 B STREET INC

CITY-887-A00

Document Type

LEGAL DOCUMENTS



Sub - Category

AMENDMENTS



18

FIFTH AMENDMENT TO LEASE

THIS FIFTH AMENDMENT TO LEASE ("**Fifth Amendment**") is dated December 21, 2021, solely for reference purposes ("**Amendment Date**"), and is made and entered into by and between I&G 525 B STREET, LLC, a Delaware limited liability company ("**Landlord**"), and THE CITY OF SAN DIEGO, a California municipal corporation ("**Tenant**"). Landlord and Tenant are sometimes referred to in this Fifth Amendment, each individually, as a "**Party**" or, collectively, the "**Parties**."

RECITALS:

A. Landlord's predecessor in title (Hines 525 B Street LP ("**Original Landlord**") and Tenant entered into that certain Office Lease dated as of June 18, 2013 (the "**Original Lease**"), whereby Landlord leased to Tenant and Tenant leased from Landlord certain office space in that certain building located and addressed at 525 B Street, San Diego, California (the "**Building**"). The Original Lease was subsequently amended by (i) that certain First Amendment to Lease also dated as of June 18, 2013, by and between Original Landlord and Tenant (the "**First Amendment**"); (ii) that certain Second Amendment to Lease, dated as of February 6, 2015, by and between Original Landlord and Tenant (the "**Second Amendment**"); (iii) that certain Third Amendment to Lease, dated as of October 11, 2016, by and between Landlord and Tenant (the "**Third Amendment**"); and (iv) that certain Fourth Amendment to Lease, dated as of October 12, 2020, by and between Landlord and Tenant (the "**Fourth Amendment**"). The Original Lease, as amended by the First Amendment, Second Amendment, Third Amendment, and Fourth Amendment, is referred to in this Fifth Amendment as the "**Lease**." The Lease as amended by this Fifth Amendment is sometimes referred to in this Fifth Amendment as the "**Amended Lease**."

B. By this Fifth Amendment, Landlord and Tenant desire to extend the Lease Term, terminate the Lease with respect to certain first floor office space, and otherwise modify the Lease as provided in this Fifth Amendment.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained in this Fifth Amendment, and for other good and valuable consideration, the receipt and legal sufficiency of which are acknowledged, Landlord and Tenant agree as follows:

1. The 5th Amendment Existing Premises. Landlord and Tenant confirm, without modifying the Lease, that pursuant to the Lease, Landlord currently leases to Tenant and Tenant currently leases from Landlord the following premises (collectively, "**5th Amendment Existing Premises**"), which 5th Amendment Existing Premises were stipulated in the Fourth Amendment to contain 126,969 rentable square feet:

(a) 90,778 rentable square feet of space in the Building consisting of the following:

(i) the entire third (3rd) floor of the Building containing approximately 19,425 rentable square feet (sometimes referred to in the Lease as the "**Original 3rd Floor Premises**");

(ii) the entire fourth (4th) floor of the Building containing approximately 19,383 rentable square feet (sometimes referred to in the Lease as the "**Original 4th Floor Premises**");

(iii) the entire fifth (5th) floor of the Building containing approximately 19,409 rentable square feet (sometimes referred to in the Lease as the "**Original 5th Floor Premises**");

(iv) the entire sixth (6th) floor of the Building containing approximately 19,388 rentable square feet (sometimes referred to in the Lease as the "**Original 6th Floor Premises**");

(v) Suites 730, 750 and 760 on the seventh (7th) floor of the Building containing approximately 12,696 rentable square feet (sometimes referred to in the Lease as the "**Original 7th Floor Premises**"); and

(vi) that certain ground floor space with an address of 1110 Sixth Avenue, San Diego, California containing approximately 477 rentable square feet (sometimes referred to in the Lease as the



"Original 1st Floor Premises" and referred to in Exhibit A attached to this Fifth Amendment as the **"5th Amendment Termination Premises"**);

(vii) the Original 3rd Floor Premises, Original 4th Floor Premises, Original 5th Floor Premises, Original 6th Floor Premises, Original 7th Floor Premises, and the Original 1st Floor Premises, are more particularly described on Exhibit A-1 to the Original Lease and are sometimes referred to in this Fifth Amendment, collectively, as the **"Original Premises"**); and

(b) 19,684 rentable square feet of space in the Building known as Suite 1200, as such space is more particularly described on Exhibit A attached to the Second Amendment (sometimes referred to in the Lease as the **"2nd Amendment Expansion Space"**); and

(c) 16,507 rentable square feet of space in the Building consisting of the following:

(i) that certain space located on the seventh (7th) floor of the Building consisting of approximately 4,788 rentable square feet known as Suite 700 (sometimes referred to in the Lease as the **"Suite 700 3rd Amendment Expansion Space"**);

(ii) that certain space located on the seventh (7th) floor of the Building consisting of approximately 1,430 rentable square feet known as Suite 740 (sometimes referred to in the Lease as the **"Suite 740 3rd Amendment Expansion Space"**); and

(iii) that certain space located on the ninth (9th) floor of the Building consisting of approximately 10,289 rentable square feet known as Suite 950 (the **"Remaining Suite 950 3rd Amendment Expansion Space"**).

2. **Termination of Original 1st Floor Premises; Remeasurement.** The 5th Amendment Existing Premises, excluding the Original 1st Floor Premises, are sometimes referred to herein as the **"5th Amendment Remaining Premises"**. As of July 1, 2022 (**"5th Amendment Contraction Effective Date"**), and for the remainder of the Lease Term, Landlord leases to Tenant, and Tenant leases from Landlord, the 5th Amendment Remaining Premises on the terms and conditions set forth in the Lease as amended by this Fifth Amendment. Within ten (10) business days after the 5th Amendment Contraction Effective Date (the **"5th Amendment Move-Out Deadline"**), Tenant will, at Tenant's cost, deliver possession of the Original 1st Floor Premises to Landlord by vacating the Original 1st Floor Premises in good condition, broom-clean, normal wear and tear excepted, with all personal property of Tenant (and of Tenant's employees, officers, principals, and agents) removed. As of 11:59 p.m. on the 5th Amendment Move-Out Deadline, Landlord and Tenant mutually terminate the Lease solely with respect to the Original 1st Floor Premises and neither Landlord nor Tenant shall have any further right or obligation under the Lease with respect to the Original 1st Floor Premises, except those obligations surviving Lease termination (if any). Beginning on the 5th Amendment Move-Out Deadline, all references in the Lease to the "Premises" will mean the 5th Amendment Remaining Premises that were re-measured to contain a rentable area of 128,210 rentable square feet as follows:

- (a) The Original 3rd Floor Premises re-measured as containing 19,691 rentable square feet;
- (b) The Original 4th Floor Premises re-measured as containing 19,664 rentable square feet;
- (c) The Original 5th Floor Premises re-measured as containing 19,694 rentable square feet;
- (d) The Original 6th Floor Premises re-measured as containing 19,653 rentable square feet;
- (e) The Original 7th Floor Premises re-measured as containing 12,630 rentable square feet;
- (f) The 2nd Amendment Expansion Space re-measured as containing 19,942 rentable square feet;
- (g) The Suite 700 3rd Amendment Expansion Space re-measured as containing 4,894 rentable square feet;

(h) The Suite 740 3rd Amendment Expansion Space re-measured as containing 1,460 rentable square feet; and

(i) The Remaining Suite 950 3rd Amendment Expansion Space re-measured as containing 10,582 rentable square feet.

3. Lease Term. The Lease Expiration Date is extended to September 30, 2025.

4. Monthly Base Rent.

(a) Until the 5th Amendment Contraction Effective Date, Tenant shall continue to pay Base Rent for the 5th Amendment Existing Premises in accordance with Section 4 of the Fourth Amendment. Notwithstanding anything to the contrary in the Lease, beginning on the 5th Amendment Contraction Effective Date, the monthly Base Rent applicable to the 5th Amendment Remaining Premises will be as set forth in the table below in this Section 4. Notwithstanding anything to the contrary in the Lease or this Fifth Amendment, Tenant will have the right to occupy the 5th Amendment Remaining Premises for the period beginning on July 1, 2022, and ending on and including October 31, 2022 ("5th Amendment Abatement Period"), without the payment of or accrual of liability for Base Rent.

Rentable Square Feet	128,210	
Period	Monthly Base Rent Rate / rsf	Monthly Base Rent
5th Amendment Contraction Effective Date (July 1, 2022) through October 31, 2022	\$0.00	\$0.00
November 1, 2022 through June 30, 2023	\$3.00	\$384,630.00
July 1, 2023 through June 30, 2024	\$3.11	\$398,733.10
July 1, 2024 through June 30, 2025	\$3.22	\$412,836.20
July 1, 2025 through 5th Amendment Revised Expiration Date (September 30, 2025)	\$3.33	\$426,939.30

(b) Landlord hereby grants to Tenant a credit (the "5th Amendment Base Rent Credit") in the amount of \$1,923,150 (i.e., \$15 x 128,210 rsf in the 5th Amendment Remaining Premises). Landlord will apply the 5th Amendment Base Rent Credit against monthly Base Rent beginning on the first day immediately following expiration of the 5th Amendment Abatement Period, in the order in which such monthly Base Rent becomes due, until such 5th Amendment Base Rent Credit is fully applied.

(c) Notwithstanding anything to the contrary in the Lease (including, without limitation, Section 29.25 (Independent Covenants) of the Original Lease) or this Fifth Amendment, each Rent payment is made by Tenant in consideration of Tenant's access to and right to use and occupancy of the Premises. In all other respects, the provisions of Section 29.25 (Independent Covenants) of the Original Lease remain in full force and effect.

(d) Notwithstanding anything to the contrary in the Lease or this Fifth Amendment, as of the Amendment Date, Landlord waives (1) all rights to accelerate Tenant's payment of Rent under the Amended Lease for any time period after the later of the date Landlord terminates the Amended Lease and the date Tenant vacates the Premises and (2) all rights under California Civil Code section 1951.2(a) and/or Section 19.2.1 of the Original Lease or otherwise, to collect Rent for any time period after the later of the date

Landlord terminates the Amended Lease and the date Tenant vacates the Premises. Consistent with Landlord's waivers in the immediately preceding sentence, as of the Amendment Date, Section 19.2.1(iii) of the Original Lease is hereby deleted from the Lease.

(e) As of the Amendment Date, Section 19.2.1(ii) of the Original Lease is hereby deleted and replaced with the following revised Section 19.2.1(ii):

(ii) If Tenant vacates the Premises after the date of termination of this Lease, the worth at the time of award of the amount by which (1) the unpaid rent which would have been earned after termination until the earlier of (A) the date Tenant vacates the Premises, and (B) the time of award exceeds (2) the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(f) As of the Amendment Date, Section 19.2.1(iv) of the Original Lease is hereby deleted and replaced with the following revised Section 19.2.1(iv):

(iv) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom but excluding the collection or acceleration of unpaid rent accruing or which would have accrued after the later of (A) the date of the termination of this Lease and (B) the date Tenant vacates the Premises.

(g) As of the Amendment Date, Section 19.2.1(v) of the Original Lease is hereby deleted and replaced with the following revised Section 19.2.1(v):

(v) At Landlord's election, such other amounts in addition to or in lieu of, but not duplicative of, the foregoing as may be permitted from time to time by applicable law, but excluding the collection or acceleration of unpaid rent accruing or which would have accrued after the later of (A) the date of the termination of this Lease and (B) the date Tenant vacates the Premises.

(h) Solely with respect to any reletting of the Premises by Landlord under California Civil Code section 1951.4 (lessor may continue lease in effect after lessee's breach to relet the Premises), Tenant waives any right it has to receive proceeds from such reletting exceeding the total amount payable by Tenant under the Amended Lease.

5. Tenant's Share and Base Year; Controllable Operating Expenses.

(a) Until the 5th Amendment Contraction Effective Date, Tenant will continue to pay Tenant's Share (as defined in the Lease) of increases in annual Operating Expenses and annual Tax Expenses under Article 4 of the Lease, including the Lease's determination of Tenant's Share as to the various component spaces constituting the 5th Amendment Existing Premises and the respective Base Years set forth in the Lease.

(b) The 5th Amendment Remaining Premises is mutually agreed to contain 126,969 rentable square feet. The Building is stated in the Lease to be 449,180 rentable square feet, but was re-measured as 454,882 rentable square feet; provided, however, that for purposes of determining "Tenant's Share" with respect to the 5th Amendment Remaining Premises as of the 5th Amendment Contraction Effective Date, the re-measured rentable area (5,250 rsf) of the Storage Space will be subtracted from such re-measured area of the Building for a calculated rentable area of the Building of 449,632 rentable square feet ("**Calculated Rentable Area of the Building**"). Effective as of the 5th Amendment Contraction Effective Date, "Tenant's Share" for the 5th Amendment Remaining Premises will be 28.5144% (128,210 rsf in the 5th Amendment Remaining Premises + the Calculated Rentable Area of the Building (449,632 rsf)).

(c) Effective as of the 5th Amendment Contraction Effective Date, prorated for any partial year, Tenant will pay Tenant's Share (as modified pursuant to Section 5(b) above) of each of the annual Operating Expenses, and the annual Tax Expenses, respectively, exceeding the amount of Operating Expenses and

Tax Expenses applicable to the Base Year, as defined in Section 5(d) below; provided, however, that Landlord will abate Tenant's obligation to pay Tenant's Share of annual Operating Expenses and annual Tax Expenses, respectively, over Base Year Operating Expenses and Tax Expenses for the period from July 1, 2022, through June 30, 2023 ("**5th Amendment OpEx/RE Tax Abatement Period**"). For purposes of clarification, if Tenant's Share of estimated excess Operating Expenses and Tax Expenses for any period before July 1, 2022, is less than Tenant's Share of actual excess Operating Expenses and Tax Expenses for such period, and if Landlord's reconciliation statement is issued during the 5th Amendment OpEx/RE Tax Abatement Period or such shortfall otherwise becomes due during the 5th Amendment OpEx/RE Tax Abatement Period, Tenant's obligation to pay for the shortfall attributable to any period before July 1, 2022, will not be abated.

(d) Effective as of the 5th Amendment Contraction Effective Date, the "**Base Year**" means calendar year 2022.

(e) **Controllable Operating Expenses.** Notwithstanding anything to the contrary contained in the Lease, as of the 5th Amendment Contraction Effective Date, for purposes of determining Tenant's Share of annual Operating Expenses over Base Year Operating Expenses, Controllable Operating Expenses will be capped each calendar year after calendar year 2022 at an amount equal to the Controllable Operating Expenses for calendar year 2022 plus 5% per annum, compounded annually on a cumulative basis. The cap on Controllable Operating Expenses as set forth in the Lease will not apply after the 5th Amendment Contraction Effective Date. Accordingly, for the period from January 1, 2022 until the 5th Amendment Contraction Effective Date, Tenant will continue to pay Tenant's Share of excess Operating Expenses pursuant to the Lease and subject to the caps on Controllable Operating Expenses set forth in the Lease. Then, the period beginning on the 5th Amendment Contraction Effective Date through December 31, 2022, will be part of the Base Year as defined in Section 5(d) and Tenant shall not pay any Operating Expenses during this period; provided, however, that for purposes of clarification, if, pursuant to Section 4.14.1 of the Original Lease, Tenant's payment of Estimated Excess is less than the actual Excess for the applicable period, and if Landlord's reconciliation Statement is issued during such 2022 Base Year period (i.e., from the 5th Amendment Contraction Effective Date through December 31, 2022) or such shortfall otherwise becomes due pursuant to the Amended Lease during such period, Tenant's obligation to pay for the shortfall will not be abated. Solely for purposes of determining calendar year 2022 Base Year Operating Expenses, the caps on Controllable Operating Expenses set forth in the Lease will be disregarded for calendar year 2022. The term "**Controllable Operating Expenses**" shall have the meaning set forth in Section 9 of the Second Amendment.

6. **Improvements.** Tenant shall accept the 5th Amendment Remaining Premises from Landlord in their presently existing, "as-is" condition. Landlord has no obligation to perform any leasehold improvements to the 5th Amendment Remaining Premises or to provide any allowance therefor.

7. **Storage Space.** In addition to the 5th Amendment Remaining Premises, Tenant currently leases the Storage Space from Landlord, as described in Section 1.5 of the Original Lease, Section 15 of the Second Amendment, and Section 15 of the Third Amendment. Tenant's lease of the Storage Space will continue during the Lease Term. During the 5th Amendment Revised Term, the Monthly Storage Rent will be \$4,500. The Monthly Storage Rent will not be abated during the 5th Amendment Abatement Period. Tenant's lease of such storage space will otherwise be in accordance with the Original Lease as amended by the Second Amendment, by Section 15 of the Third Amendment, and by this Fifth Amendment. If Tenant exercises the Option for the 5th Amendment Remaining Premises, then at the time Tenant exercises such Option Tenant may elect to continue to lease the Storage Space during the Option Term, or to terminate Tenant's lease of such Storage Space during such Option Term. If Tenant's notice exercising the Option fails to specify whether Tenant elects to continue to lease the Storage Space during the Option Term, then Tenant will be deemed to have elected to continue to lease the Storage Space during the Option Term. If Tenant elects to continue to lease the Storage Space during the Option Term, Tenant may elect to then the term of the Lease will also be extended for same period as to the Storage Space. The Monthly Storage Rent during the extension period will increase by the same percentage (over \$4,500 per month) as the increase in Monthly Base Rent per rentable square foot per month for the 7th Floor 3rd Amendment Expansion Space from December 1, 2017 (\$2.40) to the initial Market Rent (per rentable square foot per month) for the Option Term.

8. **Parking.** Tenant's parking rights as set forth in the Lease will continue throughout the Lease Term (as extended by this Fifth Amendment) (and during the Option Term as set forth in Section 9 below, if applicable). The parking rental and charges will not be abated during the 5th Amendment Abatement Period. Tenant currently leases Thirty-Three (33) unreserved parking spaces in the parking facility associated with the Building. From and after the date of mutual execution and delivery of this Fifth Amendment, Tenant shall have the right, but not the obligation, to lease up to an additional Fifteen (15) unreserved parking spaces in the parking facility associated with the Building ("**Additional Parking Spaces**") by giving Landlord 30 days' prior written notice, which notice will state the number of Additional Parking Spaces Tenant elects to lease (subject to the limitation set forth above) and the proposed start date. Similarly, Tenant may elect to cease to lease any or all of the Additional Parking Spaces by giving Landlord 30 days' notice of the number of Additional Parking Spaces that Tenant desires to cease to lease (and the number (if any) of Additional Parking Spaces which Tenant desires to continue to lease) and the date of such cessation. In such manner, Tenant shall have the right to scale up or scale down the number of Additional Parking Spaces leased by Tenant throughout the Lease Term; provided, however, that Landlord's obligation to start or restart Tenant's lease of Additional Parking Spaces will be deferred by up to 60 additional days in each instance in order for Landlord to reclaim parking spaces to fulfill Tenant's request. During the Lease Term, Tenant will pay for such Additional Parking Spaces at Landlord's standard rates from time to time. Landlord's current prevailing monthly rate for unreserved parking spaces is \$210 per parking space, which is subject to increase from time to time without notice. Tenant's parking rights under the Lease, as amended by this Fifth Amendment, will also continue throughout the Option Term, if applicable. The parking rental and charges will not be abated during the 5th Amendment Abatement Period.

9. **Option to Extend.** Section 2.2 of the Original Lease, as modified by Section 12 of the Second Amendment and Section 12 of the Third Amendment, is further modified as follows:

- (a) Tenant will only have one Option (not two Options) to extend the Lease Term;
- (b) The single available Option Term will be 60 months (not 12 months) and will commence immediately upon expiration of the Lease Term;
- (c) The Base Year for the 5th Amendment Remaining Premises during the Option Term will be the calendar year in which the Option Term commences;
- (d) As set forth in Section 12 of the Second Amendment and Section 12 of the Third Amendment, such Option must be exercised, if at all, on a collective basis as to the entire 5th Amendment Remaining Premises (i.e., Tenant must exercise the Option as to all of such space or none of such space), except as otherwise provided in Section 9(f) below as it relates to the First Refusal Space;
- (e) Tenant's Interest Notice must be given, if at all, no earlier than 15 months, and no later than 12 months, prior to the Lease Expiration Date; and
- (f) If Tenant exercises its right of first refusal (as described in Section 1.4 of the Original Lease) such that the Lease Expiration Date for Tenant's lease of the First Refusal Space does not coincide with the Lease Expiration Date of Tenant's lease of the 5th Amendment Remaining Premises as set forth in this Fifth Amendment, then Tenant's Option will operate only as to the 5th Amendment Remaining Premises and not the First Refusal Space. If the term of Tenant's lease of the First Refusal Space (if any) expires before September 30, 2025, or if Tenant exercises the Option for the 5th Amendment Remaining Premises (i.e., excluding the First Refusal Space), Tenant will have the option to extend the term of Tenant's lease of the First Refusal Space for a term of 60 months commencing immediately following the expiration date of Tenant's initial lease of the First Refusal Space. The terms of Tenant's Option to extend the term of its lease of the First Refusal Space will be those set forth in Section 2.2 of the Original Lease, as modified by Section 12 of the Second Amendment, Section 12 of the Third Amendment, and this Section 9 *mutatis mutandis*, except that Tenant's Interest Notice for the First Refusal Space Option must be given, if at all, no earlier than 15 months, and no later than 12 months, prior to the expiration of the term of Tenant's lease for the First Refusal Space.

10. **Right of First Refusal.** During the Lease Term and during the Option Term (if any), Tenant's right of first refusal under Section 1.4 of the Original Lease will only apply to all rentable space on the 11th floor of the Building.

The "Election Date" for Tenant's delivery of Tenant's Election Notice to exercise the right of first refusal is changed to refer to the date that is 15 business days after Landlord's delivery of the First Refusal Notice to Tenant. For avoidance of doubt, as to any space that became First Refusal Space after the date of the Original Lease (by virtue of the initial Premises having been expanded), Superior Leases will include all leases in effect as of the date such space became First Refusal Space.

11. Right of First Offer. Tenant's Right of First Offer under Section 18 of the Third Amendment for all the rentable space on the 8th and 9th floors of the Building will remain in full force and effect during the Lease Term, but effective as of the date of mutual execution and delivery of this Fifth Amendment, such Right of First Offer is extended to also include all rentable space on the 10th floor of the Building, *mutatis mutandis*, and the "Potential Offer Space" also includes such rentable space on the 10th floor of the Building. As it relates to the rentable space on the 10th floor of the Building, Tenant's Right of First Offer will be subject and subordinate to (i) any expansion, extension, and renewal options and other rights existing on the Amendment Date in favor of any current tenant or tenants, their successors or assigns in the Building, and (ii) any extensions or renewals of existing leases for the Potential Offer Space. If Tenant exercises the Right of First Offer, Landlord will cause the mechanical, electrical, and plumbing systems serving the applicable Offer Space to be in good working order as of the commencement date of Tenant's lease of such Offer Space.

12. Accessibility. THE PREMISES HAVE NOT UNDERGONE INSPECTION BY A CERTIFIED ACCESS SPECIALIST (CASp). A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs to correct violations of the construction-related accessibility standards within the premises. This notice is given pursuant to California Civil Code Section 1938.

13. Notice of 5th Amendment Contraction Effective Date. Landlord may deliver to Tenant a letter in substantially the form of Exhibit B attached to and made a part of this Fifth Amendment at any time after the 5th Amendment Contraction Effective Date. Tenant agrees to sign and return the letter to Landlord within fifteen (15) business days after Tenant receives the letter.

14. Other Lease Provisions.

(a) Section 1 (Termination Option) of the First Amendment adding Section 2.3 (Termination Option) to the Lease is deleted in its entirety.

(b) For avoidance of doubt, the Rent abatement provisions set forth in Sections 11.1, 13, and 19.7 of the Original Lease remain in full force and effect, were not modified by the First Amendment, Second Amendment, Third Amendment, or Fourth Amendment, and are not modified by this Fifth Amendment.

15. Asbestos. Landlord represents to Tenant that, to Landlord's actual knowledge, there is no asbestos or asbestos containing materials in the 5th Amendment Remaining Premises as of the Amendment Date. As used in this Section 15, the term "Landlord's actual knowledge" means the actual knowledge of Michelle Gottlieb (asset manager) and such person shall not have any personal liability or be obligated to perform, and Landlord shall not be obligated to perform, any due diligence investigations in connection with making the representations set forth in this Section 15.

16. Authority; Not Restricted. Landlord represents and warrants to Tenant that this Fifth Amendment has been duly authorized, signed and delivered by and on behalf of Landlord and constitutes the valid and binding agreement of Landlord in accordance with its terms. Tenant represents and warrants to Landlord that this Fifth Amendment has been duly authorized, signed and delivered by and on behalf of Tenant and constitutes the valid and binding agreement of Tenant in accordance with its terms. Tenant warrants and represents to Landlord that Tenant is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive

order (including, but not limited to, the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not knowingly engage in any dealings or transaction or be otherwise associated with any such persons or entities.

17. Real Estate Brokers. Landlord and Tenant each represent and warrant to the other that they have had no dealings with any real estate broker or agent entitled to a commission in connection with the negotiation of this Fifth Amendment, excepting only CBRE, Inc., on behalf of Landlord, and Cushman & Wakefield, on behalf of Tenant (together, the "Brokers"), and they know of no other real estate broker or agent who is entitled to a commission in connection with this Fifth Amendment. Each Party agrees to indemnify and defend the other Party against and hold the other Party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying Party in connection with this Fifth Amendment. Landlord hereby agrees that it will pay a commission to the Brokers according to a separate agreement.

18. Counterparts. This Fifth Amendment may be signed in multiple counterparts, each of which shall be deemed an original, but such counterparts, when taken together, shall constitute one agreement. The Parties agree to accept signatures on this Fifth Amendment delivered by facsimile, PDF transmitted by email, or other electronic means (including digital signatures) and that signatures delivered by facsimile, PDF transmitted by email, or other electronic means (including digital signatures) shall be binding on the Party so signing and delivering. The Parties may rely upon signatures on this Fifth Amendment delivered by facsimile, PDF transmitted by email, or other electronic means (including digital signatures).

19. Defaults.

(a) *Tenant.* Tenant represents to Landlord that, as of the Amendment Date, Tenant is in full compliance with all terms, covenants and conditions of the Lease, there are no breaches or defaults under the Lease by Tenant, and Tenant knows of no events or circumstances which, given the passage of time or otherwise, would constitute a breach or default under the Lease by either Landlord or Tenant.

(b) *Landlord.* Landlord represents to Tenant that, as of the Amendment Date, Landlord is in full compliance with all terms, covenants and conditions of the Lease, there are no breaches or defaults under the Lease by Landlord, and Landlord knows of no events or circumstances which, given the passage of time or otherwise, would constitute a breach or default under the Lease by either Landlord or Tenant.

20. No Further Modification. Except as set forth in this Fifth Amendment, all the terms and provisions of the Lease shall apply to the 5th Amendment Remaining Premises on and after the 5th Amendment Contraction Effective Date. The Lease, as amended by this Fifth Amendment, constitutes the entire understanding between the Parties as to the subject matter of the Lease.

21. Limitation on Liability. The liability of Landlord to Tenant under this Fifth Amendment will be limited as provided in Section 29.13 of the Original Lease, which Section is incorporated into this Fifth Amendment by reference as though fully set forth in this Fifth Amendment.

22. Effective on Delivery. This Fifth Amendment will only be effective when an original or copy of this Fifth Amendment signed by the respective authorized representative(s) of both Landlord and Tenant and approved as to form by the San Diego City Attorney is delivered to both Landlord and Tenant.

23. Governing Law. The procedural and substantive laws of the State of California shall govern the interpretation and enforcement of this Fifth Amendment, without application of conflicts of laws principles or statutes.

24. Binding on Successors and Assigns. This Fifth Amendment shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, successors, and assigns.

25. No Other Representations or Warranties. Except as expressly set forth in this Fifth Amendment, no Party makes any representation or warranty material to this Fifth Amendment to any other Party.

26. Incorporation of Defined Terms. All terms, phrases, and words indicated to be defined terms by initial capitalization in this Fifth Amendment that are not specifically defined in this Fifth Amendment (if any) shall have the meaning ascribed to the same term, phrase, or word in the Lease.

27. Incorporation of Recitals. The recitals of fact set forth preceding this Fifth Amendment are true and correct and are incorporated into this Fifth Amendment in their entirety.

28. Reservation of Governmental Authority. Nothing express or implied in this Lease (or any exhibit attached to this Lease) shall be construed or interpreted to limit, restrict, waive, or vary any required approval or permit from Tenant under its police power land use regulatory authority, other police powers, or other authority under law (collectively, "**Governmental Authority**") or constitute issuance of any approval or permit by Tenant under its Governmental Authority. By entering into this Lease or taking any action under this Lease, Tenant is not obligating itself or any board, commission, or body associated with Tenant regarding any discretionary action relating to the development, occupancy, use, or maintenance of the Premises, including re-zonings, variances, environmental clearances, issuance of any approval or permit, or otherwise.

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**SIGNATURE PAGE TO
FIFTH AMENDMENT TO LEASE
(525 B Street)**

IN WITNESS WHEREOF, this Fifth Amendment is signed and entered into as of the Amendment Date by and through the signatures of the respective authorized representatives of Landlord and Tenant set forth below.

"LANDLORD"

I&G 525 B Street, LLC, a Delaware limited liability company,

By: Michelle Gottlieb
Name: Michelle Gottlieb
Title: Vice President
Date: May 20, 20 22

"TENANT"

THE CITY OF SAN DIEGO,
a California municipal corporation

By: [Signature]
Print Name: Penny Mays
Title: Director, Department of Real Estate and Airport Management
Date: July 25, 20 22

Approved as to form

this 25th day of July, 20 22

MARA W. ELLIOTT, City Attorney

By: Delmar Williams
Delmar Williams
Deputy City Attorney

EXHIBIT A

OUTLINE OF 5TH AMENDMENT TERMINATION PREMISES

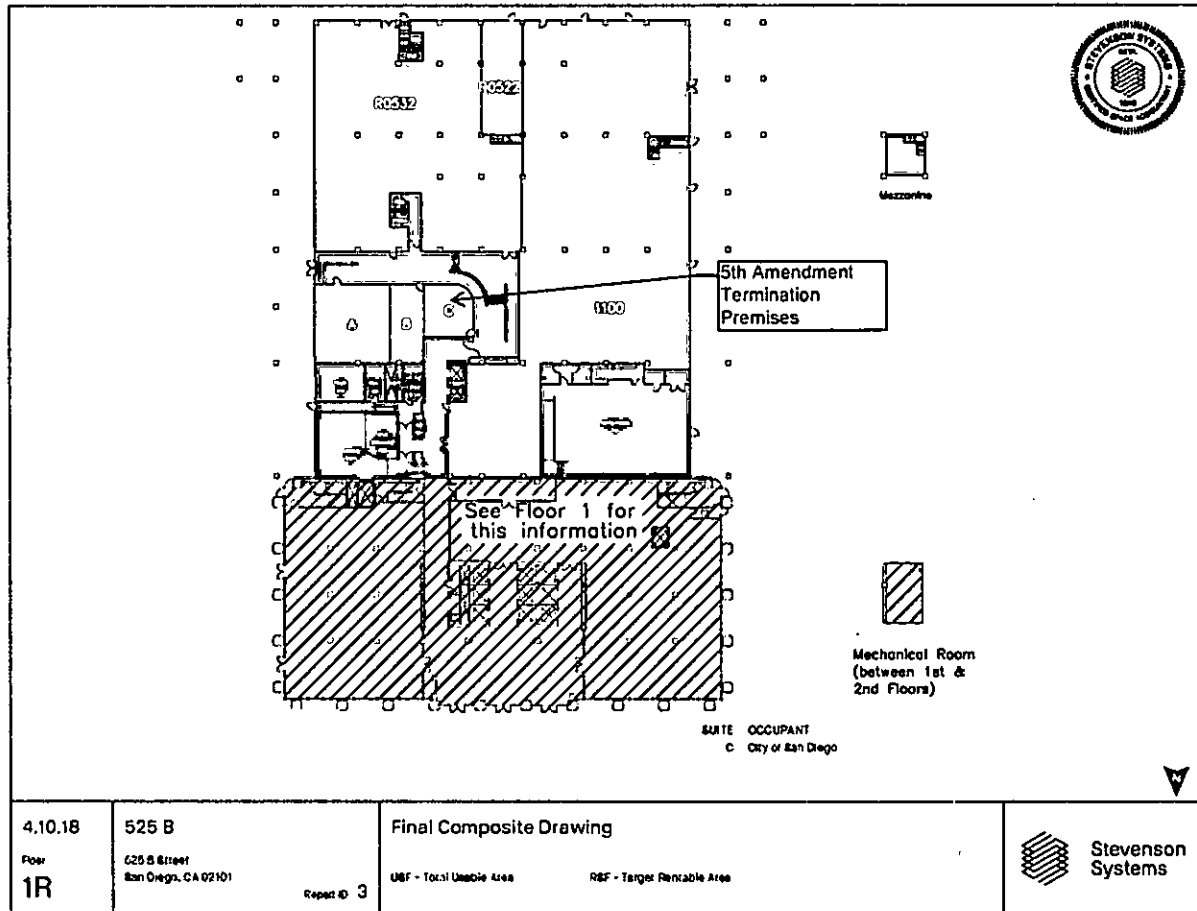


EXHIBIT B

525 B STREET

NOTICE OF 5th AMENDMENT CONTRACTION EFFECTIVE DATE

TO: _____

DATE: _____, 2022

Attention: _____

RE: Fifth Amendment to Lease ("Fifth Amendment") dated _____, 20__, between I&G 525 B STREET, LLC, a Delaware limited liability company ("Landlord"), and THE CITY OF SAN DIEGO, a California municipal corporation ("Tenant"), concerning that certain ground floor space with an address of 1110 Sixth Avenue, San Diego, California containing approximately 477 rentable square feet ("Original 1st Floor Premises").

Dear Mr. [or Ms.] _____:

In accordance with the Fifth Amendment, Landlord wishes to advise and/or confirm the following:

A. That the 5th Amendment Contraction Effective Date (as defined in the Fifth Amendment) was July 1, 2022, and Tenant acknowledges that Tenant vacated the Original 1st Floor Premises and delivered possession thereof to Landlord.

ACKNOWLEDGED:

TENANT:

a _____

By: SAMPLE _____

Print Name: _____

Its: _____

ORDINANCE NUMBER O- 21502 - (NEW SERIES)

DATE OF FINAL PASSAGE JUL 15 2022

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THAT CERTAIN FIFTH
AMENDMENT TO LEASE BETWEEN I & G 525 B STREET,
LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND
THE CITY OF SAN DIEGO.

WHEREAS, on July 9, 2013, the Council of the City of San Diego (Council) adopted Ordinance O-20273 approving that certain Office Lease (Original Lease) for office space at 525 B Street, San Diego, California (Property), between Hines 525 B Street LP (Hines) and the City of San Diego (City), on file with the Office of the City Clerk as Document No. 00-20273; on December 9, 2013, the Council adopted Ordinance O-20324 approving that certain First Amendment to the Original Lease (First Amendment), on file with the Office of the City Clerk as Document No. 00-20324; on June 2, 2015, the Council adopted Ordinance O-20492 approving that certain Second Amendment to the Original Lease, as amended by the First Amendment (Second Amendment), on file with the Office of the City Clerk as Document No. 00-20492; on November 17, 2016, the Council adopted Ordinance O-20754 approving that certain Third Amendment to the Original Lease, as amended by the First Amendment and Second Amendment (Third Amendment), on file with the Office of the City Clerk; and on November 10, 2020, the Council adopted Ordinance O-21257 approving that certain Fourth Amendment to the Original Lease, as amended by the First Amendment, Second Amendment, and Third Amendment (Fourth Amendment), on file with the Office of the City Clerk (hereinafter, the Original Lease, as amended by, collectively, the First Amendment, Second Amendment, Third Amendment, and Fourth Amendment is referred to as the "Lease"); and

WHEREAS, Hines sold the Property to I & G 525 B Street, Inc., a Delaware corporation, which subsequently became I & G 525 B Street, LLC, a Delaware limited liability company (I & G), the current owner of the Property and "Landlord" under the Lease; and

WHEREAS, I & G and City have agreed to amend the Lease a fifth time (Fifth Amendment) to, among other things, all as more specifically set forth in the Fifth Amendment:

1. Extend the Lease term until September 30, 2025;
2. Provide for the City to surrender certain space on the 1st floor of the office building, containing approximately 477 rentable square feet, by July 15, 2022;
3. Provide certain rent abatement to the City from July 1, 2022, through October 31, 2022;
4. Establish a new base rent for the office space at \$3.00 per square foot, escalating annually;
5. Provide City with a base rent credit in the amount of \$1,923,150;
6. Modify the City's share of building operating expenses;
7. Set a new rent amount for the storage space leased by the City in the building;
8. Modify the City's option to extend the Lease term under Lease Section 2.2;
9. Modify the City's right of first refusal under Lease Section 1.4; and
10. Modify City's right of first offer under Section 18 of the Third Amendment; and

WHEREAS, under City Charter section 99, no contract, agreement, or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two thirds' majority vote of the Council; NOW, THEREFORE,

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

Section 1. The Council approves the Fifth Amendment, including all attachments and exhibits to the Fifth Amendment.

Section 2. The Mayor or designee is authorized and directed, on behalf of the City, to sign and enter into the Fifth Amendment, including all attachments and exhibits to the Fifth Amendment requiring the City's signature, and take all other actions reasonably necessary or desirable to perform the City's obligations under the Fifth Amendment. A copy of the Fifth Amendment, when fully signed, shall be placed on file with the City Clerk as Document No. 21502.

Section 3. The Chief Financial Officer is authorized to expend an amount not to exceed \$12,349,039.50 in base rent, and an estimated \$850,032.30 in operating expenses over the term of the Fifth Amendment, including for fiscal year 2023, \$1,007,898.82 from Engineering & Capital Projects Fund #720057, \$122,064.12 from the Muni Sewer Revenue Fund #700000, \$122,064.13 from the Water Utility Operating Fund #700011, and \$217,411.33 from the General Fund #10000. Funding for base rent and operating expenses under the Fifth Amendment in fiscal year 2023 and future fiscal years is contingent upon the Council's annual appropriation of funds for these expenses for each applicable fiscal year and the Chief Financial Officer furnishing one or more certificates certifying that funds necessary for these expenditures, are, or will be, on deposit with the City Treasurer.

Section 4. A full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 5. This Ordinance shall take effect and be in force on the thirtieth day following its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Delmar G. Williams
Delmar G. Williams
Deputy City Attorney

DGW:cc:cm
June 22, 2022
June 23, 2022 COR. COPY
Or.Dept: DREAM
Doc. No. 3009889_3

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUL 12 2022.

ELIZABETH S. MALAND
City Clerk

By [Signature]
Deputy City Clerk

Approved: 7/14/22
(date)

[Signature]
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(NOTE: The date of final passage is July 15, 2022, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

Passed by the Council of The City of San Diego on JUL 12 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	☒	☐	☐	☐
Jennifer Campbell	☒	☐	☐	☐
Stephen Whitburn	☒	☐	☐	☐
Monica Montgomery Steppe	☒	☐	☐	☐
Marni von Wilpert	☒	☐	☐	☐
Chris Cate	☒	☐	☐	☐
Raul A. Campillo	☒	☐	☐	☐
Vivian Moreno	☒	☐	☐	☐
Sean Elo-Rivera	☒	☐	☐	☐

Date of final passage JUL 15 2022.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

I HEREBY CERTIFY that the foregoing 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 JUN 28 2022, and on JUL 15 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21502

Passed by the Council of The City of San Diego on July 12, 2022, by the following vote:

YEAS: LACAVA, CAMPBELL, WHITBURN, MONTGOMERY STEPPE, VON
WILPERT, CATE, CAMPILLO, MORENO & ELO-RIVERA.

NAYS: NONE.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Matthew R. Hilario, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of
ORDINANCE NO. O-21502 (New Series) of The City of San Diego, California.

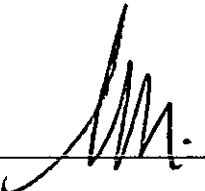
I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days
had elapsed between the day of its introduction and the day of its final passage, to wit, on
June 28, 2022, and on July 15, 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such
reading was dispensed with by a vote of five members of the Council, and that a written
copy of the ordinance was made available to each member of the Council and the public
prior to the day of its passage.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By:  Deputy