

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

260



FROM: Department of Facilities Management

SUBMITTAL DATE:
March 13, 2009

SUBJECT: Lease Agreement – Transportation and Land Management Agency, Murrieta

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Lease Agreement and authorize the Chairman of the Board to execute the same on behalf of the County; and
2. Authorize the Auditor-Controller to adjust the Department of Facilities Management's FY 2008/09 budget as outlined on Schedule A.

BACKGROUND: (Commences on Page 2)

FISCAL PROCEDURES APPROVED
ROBERT E. BYRD, AUDITOR-CONTROLLER

BY: *[Signature]* 4/13/09
SUSANA GARCIA-BOCANEGRA

[Signature]
Robert Field
Assistant County Executive Officer/EDA/FM

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 98,763	In Current Year Budget:	Partially
	Current F.Y. Net County Cost:	\$ 83,948	Budget Adjustment:	Yes
	Annual Net County Cost:	\$168,303	For Fiscal Year:	08/09
SOURCE OF FUNDS: Development Related Fees 15%; General Fund 85%			Positions To Be Deleted Per A-30	<input type="checkbox"/>
			Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *[Signature]*
Jennifer L. Sargent

County Executive Office Signature

Consent
 Policy
 Consent
 Policy

Dept Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.: 3/6/99, 3.10; 3/16/00,
 3.10; 6/27/00, 3.47; 4/24/01, 3.36;
 1/8/02, 3.18; 9/24/02, 3.22; 1/14/03,
 3.13; 6/22/04, 3.15; 6/20/06, 3.19

District: 3

Agenda Number:

ATTACHMENTS FILED
 WITH THE CLERK OF THE BOARD

3.17

FORM APPROVED COUNTY COUNSEL
 BY: *[Signature]* M.G. GARCIA 3-16-09
 SYNTHIA M. GUNZEL DATE
 Departmental Concurrence

[Handwritten notes]
 Mileage

BACKGROUND:

On July 29, 2008, the Board of Supervisors approved an In-Principle Form 11 for the Transportation and Land Management Agency (TLMA) to locate replacement office space in the Murrieta area. The existing space located at 39493 Los Alamos Road, in Murrieta, was deemed excessive in size and the department's objective is to reduce the amount of office space at this location. The Department of Facilities Management (DOFM), Real Estate Division, issued a Request for Proposal and received responses from landlords in the area. Based upon the submittals received, TLMA opted to demise the existing office space with their current landlord from 21,255 sq. ft. to 8,476 sq. ft. to accommodate the basic needs of the department. The Real Estate Division has prepared a lease agreement with the landlord as follows:

Lessor: Yasi, Incorporated
2251 San Diego Avenue, Suite B-150
San Diego, California 92110

Premises Location: 39493 Los Alamos Road
Murrieta, California 92563

Size: Approximately 8,476 square feet

Term: Four (4) years; one (1) year option to extend

Rent: New
\$ 1.76 per square foot
\$ 14,917.76 per month
\$179,013.12 per year

Rental Adjustments:

Year 1	\$14,917.76 per month
Year 2	\$14,917.76 per month
Year 3	\$15,365.29 per month
Year 4	\$15,979.90 per month

Utilities: County pays electric. Lessor pays all other utilities.

Custodial: Provided by Lessor.

Maintenance: Provided by Lessor.

RCIT: \$82,200.00 (paid by TLMA)

Parking: Sufficient to meet County requirements.

Tenant Improvements: \$138,352.50 (paid by Lessor)

The attached Lease Agreement has been reviewed and approved by County Counsel as to legal form

FINANCIAL DATA:

All associated costs for this Lease Agreement will be fully funded through TLMA budget. TLMA has budgeted these costs in FY 2008/09; however, DOFM requires a budget adjustment to its FY 2008/09 budget to cover related transactional costs with the property owner, as well as ongoing utility costs.

While DOFM will front the costs for this Lease Agreement with the property owner, TLMA will reimburse DOFM for all associated costs. Code Enforcement/Building and Safety will be reimbursed from the County Capital Improvement Fund for all tenant improvements and IT facility infrastructure costs. No additional net county cost will be incurred as a result of this Lease Agreement.

Schedule A

Increase Appropriations:

10000-7200400000-526700 – Rent/Lease Buildings	\$14,918
10000-7200600000-529540 – Utilities	\$ 1,017
10000-7200400000-572500 – Intra Leases	(\$14,918)
10000-7200600000-573800 – Intra Utilities	(\$ 1,017)

Exhibit A

TLMA Lease Cost Analysis for FY 2008/09 39493 Los Alamos Road, Murrieta

Current Square Feet Occupied:

Office: 8,476 SQFT

Cost per Square Foot: \$ 1.76

Lease Cost per Month (June 1, 2009 - June 30, 2009)	\$ 14,918	
Total Estimated Lease Cost for FY 2008/09		\$ 14,918

Estimated Utility Costs:

Utility Cost per Square Foot \$ 0.12

Estimated Utility Costs (June 1, 2009 - June 30, 2009) \$ 1,017

Total Estimated Utility Cost for FY 2008/09		\$ 1,017
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Tenant Improvement Costs: \$ -

RCIT Improvements: \$ 82,200

FM Lease Management Fee (Based @ 4.21%) \$ 628

Total Estimated Lease Cost FY 2008/09: \$ 98,763

Current County Cost at 85%: \$ 83,948

Exhibit B

TLMA Lease Cost Analysis for FY 2009/10 39493 Los Alamos Road, Murrieta

Current Square Feet Occupied:

Office: 8,476 SQFT

Cost per Square Foot: \$ 1.76

Estimated Lease Cost Per Month (July 1, 2009 - June 30, 2010) \$ 179,013
Estimated Lease Cost (July 1, 2009 - June 30, 2010) \$ 179,013

Estimated Utility Costs:

Utility Cost per Square Foot \$ 0.12

Estimated Utility Costs (July 1, 2009 - June 30, 2010) \$ 12,205

FM Lease Management Fee (Based @ 3.79%) \$ 6,785

Total Estimated Lease Cost FY 2009/10: \$ 198,003

Annual Net County Cost at 85%: \$ 168,303

LEASE
(Transportation and Land Management Agency
39493 Los Alamos Road, Murrieta)

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EXHIBITS

The following exhibits are attached hereto and made a part of this Lease:

Site Plan.....	Exhibit A-1
Space Plan.....	Exhibit A-2
Leasehold Improvement Agreement.....	Exhibit B
Asbestos.....	Exhibit C
Confirmation of Lease Information.....	Exhibit D
Custodial Services Agreement.....	Exhibit E
General Construction Specifications for Leased Facilities.....	Exhibit F
Estoppel Certificate.....	Exhibit G
Subordination, Non-Disturbance & Attornment Agreement.....	Exhibit H
Rules and Regulations	Exhibit I
Amortization Table.....	Exhibit J
Covenants, Conditions and Restrictions.....	Exhibit K

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LEASE
COUNTY OF RIVERSIDE
(Transportation and Land Management Agency
39493 Los Alamos Road, Murrieta)

1. Parties.

1.1 This Lease ("Lease") is made by and between the **COUNTY OF RIVERSIDE**, hereinafter referred to as "County" and **YASI, INCORPORATED**, a California Corporation, hereinafter referred to as "Lessor." County and Lessor are hereinafter collectively referred to as the "Parties" or individually as a "Party."

2. Premises.

2.1 **Letting.** Lessor hereby leases to County, and County hereby leases from Lessor, the Premises, for the term, at the rental, and upon all terms, covenants and conditions set forth in this Lease.

2.2 **Defined.** The Premises shall consist of that certain portion of the project, as defined herein, including all improvements therein or to be provided by Lessor under the terms of this Lease, and commonly known as 39493 Los Alamos Road, located in the City of Murrieta, County of Riverside, State of California, and generally described as office space consisting of approximately eight thousand four hundred seventy six (8,476) square feet with forty three (43) unreserved parking spaces and no reserved parking spaces, all as shown on the site plan attached as Exhibit "A-1." It is understood that the Premises include all appurtenances and easements thereto and the non-exclusive right of ingress and egress at all times to and from the public streets and highways for County, its employees and invitees. The Premises, the building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project."

2.3 **Common Areas Defined.** The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project not occupied by other tenants that are provided by and designated by the Lessor from time to time for the general non-exclusive use of Lessor, County, and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors, and invitees, including but not limited to common restrooms, parking areas, loading and unloading zones, trash areas, roadways, walkways, driveways, landscaped areas and interior utility raceways and installations within the Premises.

2.4 **County's Rights - Common Areas.** Lessor grants to County, for the benefit of the County and its employees, suppliers, shippers, customers, contractors, and invitees, during the term of this Lease, the non-exclusive right to use, in common

1 with others entitled to such use, the Common Areas as same may from time to time
2 exist. Lessor shall have the right to promulgate rules and regulations for the
3 management, safety, care, and cleanliness of the Common Areas. The current rules
4 and regulations are attached as Exhibit "I," hereto. County's prior approval shall be
5 required for any changes to the Common Areas which adversely affect County's use
6 and occupancy of the Premises, the parking, or accessibility of the Premises. County
7 shall respond in writing to Lessor's Notice of Intended Change in the Common Area
8 within thirty (30) business days after Lessor delivers the Notice of Intended Change to
9 the County. County's failure to respond within the thirty (30) day period shall be
10 deemed to mean the County has no objection to Lessor's proposed change in the
11 Common Area.

12 **2.5 Preparation of Premises/Acceptance.** The rights and obligations of
13 the Parties regarding the construction of the Premises before the commencement of
14 the Lease Term are stated in the attached Leasehold Improvement Agreement, Exhibit
15 "B." If this Lease conflicts with the Leasehold Improvement Agreement, the Leasehold
16 Improvement Agreement shall prevail.

17 **2.6 Condition of Premises.** County is currently a tenant in the Premises
18 and occupies an additional area to be vacated by the County. Lessor shall construct a
19 demising wall separating the Premises from the area to be vacated by the County in a
20 fully clean and safe condition, free of hazards and debris, entirely permitted and
21 inspected by local authorities, on the Commencement Date, and Lessor warrants for
22 the term of this Lease, that, all systems and equipment, including, but not limited to,
23 electrical, plumbing, fire sprinkler, fire suppression system, fire/life/safety system,
24 elevators, security systems, lighting, heating, ventilating and air conditioning systems
25 ("HVAC"), loading doors, if any, that serve the Premises and all other such elements in
the Premises (herein defined as the "Base Building Systems"), other than those
installed or constructed by County, shall be in safe, hazard free, good operating
condition, and, the roof, bearing walls and foundation of the Premises shall be free of
material defect.

3. Use.

3.1 County shall use and occupy the Premises for the purpose of providing
office space for use by its Transportation and Land Management Agency, but the
Premises may be used as office space for any official business of County government
or any other legal use which is reasonably comparable to office use. Nothing
contained in this Lease shall be construed to require County to occupy the Premises
continuously. County shall at all times comply with any and all covenants, conditions
and restrictions affecting the Lease Premises. Such covenants, conditions and
restrictions are attached as Exhibit "K" and by this reference are made a part of this
Lease.

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1 **4. Term.**

2 **4.1 Commencement.** This Lease shall be effective upon the date of its full
3 execution by the Parties hereto. The Term of this Lease shall be for a period of 48
4 months ("Original Term") commencing (Commencement Date) on the earlier of (a) the
5 date County staff occupies the Premises, or (b) the date on which County accepts the
6 Premises for occupancy, which shall occur only after Lessor delivers to County a copy
7 of the Certificate of Occupancy executed by the appropriate governing authority, if
applicable, and provided that County, in its' sole discretion, is satisfied that all
leasehold improvements have been completed in accordance with Exhibit "B" and
Exhibit "F," excepting minor punch list items. The Original Term shall expire at
midnight on the last day of the forty-eight (48) month term ("Expiration Date").

8 **4.2 Confirmation of Lease Information.** At such time as the
9 Commencement Date of this Lease has been determined, either Party may deliver to
10 the other Party a notice in the form set forth in the attached Exhibit "D," which the
11 receiving Party shall execute, after making any corrections necessary to conform the
12 information to the provisions of this Lease, and return to the forwarding Party within
thirty (30) days after receipt. Either Party will use reasonable efforts to deliver the
notice to the other Party within thirty (30) days after the Lease Commencement Date.
Anything to the contrary notwithstanding, failure to forward or execute said notice shall
not invalidate or nullify the provisions of this Lease.

13 **4.3 Delay in Delivery of Premises.** If the Original Term of this Lease has
14 not commenced by one hundred twenty (120) days from County's execution of this
15 Lease, which one hundred twenty (120) day period shall be extended by the number of
16 days equal to the number of days Lessor is delayed by strikes, inability to obtain
17 materials, governmental delays or delays caused by County ("Construction Period").
18 County may, at its sole option, either: (a) deduct from any rents that may become due
19 hereunder the sum of \$497.26 for each day the Premises are not substantially
20 complete and available for occupancy after the end of the Construction Period, as
21 liquidated damages for failure to provide occupancy in a timely manner as prescribed
22 hereunder or (b) cancel this Lease, and Lessor hereby waives any and all rights that it
23 may have against County for any costs, expenses and/or charges that Lessor may
24 have incurred as a result of preparing the Premises for occupancy. Lessor and
County agree that such damages are to be one of the mutually exclusive remedies, as
prescribed in this Section 4, for such failure, in that at the time of entering into this
Lease it would be impractical and extremely difficult to fix the actual damages that
would flow from Lessor's failure to provide occupancy in a timely manner, including,
but not limited to, the difference in money between the total sum to be paid by County
to another party for rent to Lease such party's real property, if the rental hereunder is
less than the rental to be paid such other party; or if the Original Term of this Lease
has not commenced by the end of the Construction Period.

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1 **4.4 Holding Over.** Any holding over by County after the expiration of said
2 term or any extension thereof shall be deemed a month to month tenancy upon the
3 same terms and conditions of this Lease, except that rent shall be one hundred twenty
4 five percent (125%) of the rent for the last month of the term.

5 **5. Rent.** The anniversary dates shall be deemed to fall on the first day of the first
6 full month of each lease year following commencement of the Lease term.

7 **5.1 Rent.** County shall pay the monthly sums to Lessor as set forth in the
8 below schedule as rent for the Leased Premises, payable, in advance, on the first day
9 of the month or as soon thereafter as a warrant can be issued in the normal course of
10 County's business; provided, however, in the event rent for any period during the term
11 hereof which is for less than one (1) full calendar month said rent shall be pro-rated
12 based upon the actual number of days of said month. The monthly rent shall be
13 payable as follows:

<u>Year</u>	<u>Amount</u>
1	\$14,917.76
2	\$14,917.76
3	\$15,365.29
4	\$15,979.90

14 **5.2 Percentage Increase.** Notwithstanding the provisions of Section 5.1
15 herein, the monthly rental shall not be increased during Year one (1) and Year (2) two
16 of this Lease. The monthly rental shall be increased by an amount equal to three
17 percent (3%) during Year three (3) and four percent (4%) during Year four (4) of this
18 Lease.

19 **6. Options.**

20 **6.1 Option to Extend Term.** Lessor grants to County one (1) option to
21 extend the Lease term ("Extension Option"). Extension Option shall be for a period of
22 one (1) year ("Extended Term"), subject to the conditions described in this Section 6.1.

23 **6.1.1 Exercise of Option.** The Extension Option shall be exercised
24 by County delivering to Lessor written notice thereof no later than sixty (60) days prior
25 to the expiration of the Original Term or any extension thereof.

6.1.2 Option Rent. The rent payable by County during any Extended
Term shall be three percent (3%) greater than prior year.

6.1.3 All terms and conditions of this Lease with exception of Rent and
Lease Term shall remain in full force and effect during the Extended Term.

6.2 Right of First Refusal to Lease Additional Space. Lessor hereby

1 grants to County a right of first refusal to lease the other premises in the building
2 containing the leased Premises ("Adjacent Premises"), in the event Lessor receives an
3 offer and/or proposals from a third party to lease any portion of the Adjacent Premises,
4 which offer is acceptable to Lessor. This Right of First Refusal shall not apply to the
5 first lease of the Adjacent Premises vacated by County; however, this right shall apply
6 to all subsequent offers on proposals to lease said space. Lessor shall promptly notify
7 County in writing of the offer, including the square footage of the portion of the
8 Adjacent Premises proposed to be let and other terms and conditions of the offer.
9 County shall have fifteen (15) days within which to notify Lessor in writing whether
10 County agrees to lease the portion of the Adjacent Premises under such offer upon the
11 terms and conditions set forth in such offer. In the event County fails to give written
12 notice of its election to lease the proposed additional space, Lessor shall be free to
13 accept the offer and/or proposal and lease the Adjacent Premises to the third party. If
14 the third party fails to lease such portion of the Adjacent Premises and the Adjacent
15 Premises (or remaining portion of the Adjacent Premises) remains available, County
16 shall have the same right of first refusal granted herein with regard to any future offer
17 to lease such portion of the Adjacent Premises.

11 **6.3 Right of First Refusal to Extend Lease Term.** At such time as the
12 Original Term and/or Extended Terms have expired, in further consideration of the
13 Rent, Covenants, and Conditions to be paid, performed, and observed by County,
14 Lessor hereby grants to County a right of first refusal to extend the Lease of the
15 Premises. In the event Lessor receives an offer and/or proposal from a third party to
16 lease the Premises, which offer is acceptable to Lessor, Lessor shall promptly notify
17 County in writing of the offer, including the amount of rent offered and other terms and
18 conditions of the offer. County shall have fifteen (15) days within which to notify
19 Lessor in writing whether County agrees to extend the Lease of the Premises on the
20 same terms and conditions as the third party offer. In the event County elects to
21 extend the Lease of the Premises, the Lease shall be subject to the same terms and
22 conditions as the third party offer, including, but not limited to, amount of rent, term,
23 and commencement date. In the event County fails to give written notice of its election
24 to extend the Lease of the Premises, Lessor shall be free to accept the offer and/or
25 proposal and lease the Premises to the third party. If the third party fails to lease the
Premises and the Premises remains available, County shall have the same right of
first refusal granted herein with respect to an offer and/or proposal to lease the
Premises by a subsequent third party offerer.

21 **6.4 County's Right to Early Termination.** The Parties hereto recognize
22 and understand that the rental consideration hereunder originates from county, state
23 and/or federal sources and therefore, if such funding is reduced by fifteen percent
24 (15%) or more from the current year budget for the Transportation and Land
25 Management Agency Budget, or otherwise becomes unavailable, based on the
County's annual fiscal budget, then County shall have the right to terminate this Lease.
County shall have the right to terminate this Lease by giving Lessor sixty (60) days
notice. In the event the County terminates this Lease as provided above, County

1 agrees to pay Lessor the balance due of the unamortized tenant improvement cost.
2 Such balance shall be determined by taking the total improvement costs divided by
3 forty eight (48) multiplied by the number of months remaining under the Lease term.
4 The Lessor's costs of tenant improvements are set forth in Exhibit "B."

4 **7. Compliance.**

5 **7.1 Compliance.** Lessor warrants that it shall use all commercially
6 reasonable efforts to cause the Premises and improvements on the Premises to
7 comply with all applicable State and Federal laws, covenants or restrictions of record,
8 building codes, regulations and ordinances ("Applicable Requirements") in effect on
9 the Commencement Date of this Lease, for the use specified in paragraph 3.1. If the
10 Premises do not comply with said warranty, Lessor shall use all commercially
11 reasonable efforts to promptly after receipt of written notice from County or any
12 governmental agency having jurisdiction over such matters setting forth the nature and
13 extent of such non-compliance; rectify the same at Lessor's expense. If the Applicable
14 Requirements are hereinafter changed so as to require during the term of this Lease,
15 unless same is the result of the use to which County puts the Premises, the
16 remediation of any Hazardous Substance as hereinafter defined, or the reinforcement
17 or other physical modification of the Premises, Lessor shall use all commercially
18 reasonable efforts to promptly after receipt of written notice from County or any
19 governmental agency having jurisdiction over such matters setting forth the nature and
20 extent of such non-compliance, rectify the same at Lessor's expense.

21 **7.2 Americans with Disabilities.** Lessor warrants and represents the
22 Premises shall be readily accessible to and usable by individuals with disabilities in
23 compliance with Title III of the Americans with Disabilities Act of 1990 and California
24 Title 24, as amended from time to time and regulations issued pursuant thereto and in
25 effect from time to time. Any cost incurred to cause the Premises to comply with said
Act shall be borne by Lessor.

7.3 Asbestos and Lead Based Paint. Lessor warrants and represents the
Premises shall be constructed, operated and maintained free of hazard from asbestos
and lead based paint, as more fully set forth in the attached Exhibit "C."

7.4 Hazardous Substance. It is the intent of the Parties to construe the
term "Hazardous Substances" in its broadest sense. Hazardous Substance shall be
defined as any product, substance, or waste whose presence, use, manufacture,
disposal, transportation, or release, either by itself or in combination with other
materials, is either: (a) potentially injurious to the public health, safety or welfare, the
environment or the Premises; (b) regulated or monitored by any governmental
authority; or (c) a basis for potential liability of County to any governmental agency or
third party under any applicable statute or common law theory.

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1 Lessor acknowledges that County's use may from time to time require the
2 presence of Hazardous Substances at the Premises. County agrees that all such
3 Hazardous Substances located in, at, or on the Premises shall be used, stored,
4 handled, treated, transported, and disposed of in compliance with all applicable laws.

4 Lessor warrants and represents to County that Lessor has not used,
5 discharged, dumped, spilled or stored any Hazardous Substances on or about the
6 Premises, whether accidentally or intentionally, legally or illegally, and has received no
7 notice of such occurrence and has no knowledge that any such condition exists at the
8 Premises. If any claim is ever made against County relating to Hazardous Substances
9 present at or around the Premises, whether or not such substances are present as of
10 the date hereof, or any such Hazardous Substances are hereafter discovered at the
11 Premises (unless introduced by County, its agents or employees), all costs of removal
12 incurred by, all liability imposed upon, or damages suffered by County because of the
13 same shall be borne by Lessor, and Lessor hereby indemnifies and agrees to be
14 responsible for and defend and hold County harmless from and against all such costs,
15 losses, liabilities and damages, including, without limitation, all third-party claims
16 (including sums paid in settlement thereof, with or without legal proceedings) for
17 personal injury or property damage and other claims, actions, administrative
18 proceedings, judgments, compensatory and punitive damages, lost profits, penalties,
19 fines, costs, losses, attorneys' fees and expenses (through all levels of proceedings),
20 consultants or experts fees and costs incurred in enforcing this indemnity. The
21 representation, warranty and indemnity of Lessor described in this Paragraph shall
22 survive the termination or expiration of this Lease.

15 If any claim is ever made against Lessor relating to Hazardous Substances
16 arising out of County's use of the premises introduced on to the Premises its County's
17 agents or employees, all costs of removal incurred by, all liability imposed upon, or
18 damages suffered by Lessor because of the same shall be borne by County, and
19 County hereby indemnifies and agrees to be responsible for and defend and hold
20 Lessor harmless from and against all such costs, losses, liabilities and damages,
21 including, without limitation, all third-party claims (including sums paid in settlement
22 thereof, with or without legal proceedings) for personal injury or property damage and
23 other claims, actions, administrative proceedings, judgments, compensatory and
24 punitive damages, lost profits, penalties, fines, costs, losses, attorneys' fees and
25 expenses (through all levels of proceedings), consultants or experts fees and costs
incurred in enforcing this indemnity. The representation, warranty and indemnity of
County described in this Paragraph shall survive the termination or expiration of this
Lease.

23 If any claim is ever made against County relating to Hazardous Substances
24 arising out of Lessor's use of the premises introduced on to the Premises, its Lessor's
25 agents or employees, all costs of removal incurred by, all liability imposed upon or
damages suffered by County because of the same shall be borne by Lessor, and
Lessor hereby indemnifies and agrees to be responsible for and defend and hold

1 County harmless from and against all such costs, losses, liabilities and damages,
2 including, without limitation, all third-party claims (including sums paid in settlement
3 thereof, with or without legal proceedings) for personal injury or property damage and
4 other claims, actions, administrative proceedings, judgments, compensatory and
5 punitive damages, lost profits, penalties, fines, costs, losses, attorneys' fees and
6 expenses (through all levels of proceedings), consultants or experts fees and costs
7 incurred in enforcing this indemnity. The representation, warranty and indemnity of
8 Lessor described in this Paragraph shall survive the termination or expiration of this
9 Lease.

10 **7.5. Sick Building Syndrome.** Lessor warrants and represents the
11 Premises shall be constructed, operated and maintained free of certain hazards,
12 including, but not limited to: spores, fungus, molds, bacteria, chemicals or fumes or
13 other causes of any hazardous micro-environments, sometimes known as "Sick
14 Building Syndrome", emanating from or within the Premises that may potentially cause
15 discomfort, bodily injury, sickness or death. Should it be determined that remediation
16 is necessary based on a report by a trained investigator, Lessor will promptly contract
17 with a qualified and experienced company to safely remove the micro-environments
18 using remediation guidelines recommended or required by the appropriate
19 governmental agency. Any cost incurred to cause the Premises to be free of such
20 hazard shall be borne by Lessor unless the offending matter arose out of the use of
21 the premises by the County its agents or employees, in which event the cost shall be
22 borne by County.

23 **8. Custodial Services.**

24 **8.1 Custodial Services.** Lessor shall provide, or cause to be provided, and
25 pay for all custodial services in connection with the Leased Premises and such
services shall be provided as set forth in the attached Exhibit "E". The provider of
such custodial services will perform background checks through LiveScan or in the
manner specified by County, of qualified permanent and temporary employees to
determine their suitability for employment. The provider will be bonded in the sum of
Ten Thousand Dollars (\$10,000), and proof of such insurance, as supplied by the
Lessor, shall be furnished prior to the end of the Construction Period. In addition to
bonding as required herein, Lessor shall also receive proof of statutory workers'
compensation insurance, commercial general liability and vehicle liability insurance
from the provider of any custodial functions performed at the Premises location.

8.2 County's Right to Provide Custodial Service and Deduct Cost. If
County provides written notice to Lessor of an event or circumstance that requires the
action of Lessor with respect to the custodial services as set forth in Section 8.1 and
Exhibit "E," and Lessor fails to provide such action as required by the terms of this
Lease within three (3) business days of County's notice, County may take the required
action to provide custodial services by its staff or those of a custodial contractor if: (1)
County delivers to Lessor an additional written notice advising Lessor that County

1 intends to take the required action if Lessor does not begin the required action within
2 forty-eight (48) hours after the written notice; and (2) Lessor fails to begin the required
3 work within this forty-eight (48) hour period. Upon demand by County, Lessor shall
4 promptly reimburse County the actual cost and expenses thereof, provided said costs
5 and expenses are reasonable. Should Lessor fail to promptly pay the cost and
6 expenses, County may deduct and offset that amount from Rent payable under this
7 Lease. For purposes of this Section, notice given by fax or e-mail shall be deemed
8 sufficient.

9
10 **9. Utilities.**

11 **9.1** Lessor warrants and represents to County that during the term of this
12 Lease and any extension thereof that sufficient utility services to provide water,
13 telecommunications, electric power, natural gas and sewers necessary to meet
14 County's requirements exists or are available for use by County within the Premises.

15 **9.2** County shall pay for all telephone and electrical services within the
16 leased space which will be used in connection with the Leased Premises. Lessor shall
17 provide, or cause to be provided, and pay for all other utility services, including, but not
18 limited to, water, natural gas, refuse collection and sewer services, as may be required
19 in the maintenance, operation and use of the Leased Premises.

20
21 **10. Repairs and Maintenance.**

22 **10.1 Lessor's Repair and Maintenance Obligations.** Lessor shall, at
23 Lessor's sole expense and in accordance with the terms of this Lease, repair, replace
24 and maintain in attractive condition, good order and function throughout the term in
25 accordance with Exhibit "F", General Construction Specifications for Leased Facilities,
(a) the structural portions of the Premises (understood to include the roof, foundation
and load bearing walls); (b) the nonstructural portions of the Premises (understood to
include the roof covering and membrane) including, but not limited to, all
improvements, alterations, fixtures, but excluding furnishings; (c) all systems and
equipment, including, but not limited to, Base Premises Systems as heretofore
described that serve the Premises; and (d) the exterior portions of the Premises, and
real property including, but not limited to, landscaping, driveways, sidewalks, lighting
and parking facilities servicing the Premises. It is the intent of this paragraph that
Lessor performs any and all building repairs, replacements and maintenance. Lessor
agrees to make all repairs to or alterations of the Premises that may become
necessary by reason of industry standard for age, wear and tear, deferred
maintenance or defects in any construction thereof by Lessor.

10.2 Lessor's Default. Repairs shall be made promptly when appropriate to
keep the applicable portion of the Premises and other items in the condition described
in this Section. Lessor understands certain response time is required to ensure
County operations continue with minimal interruption to ensure the safety of

1 employees and delivery of services. To the extent the cause of the interruption in
2 electrical power, HVAC operations and certain essential daily custodial services is
3 within the reasonable control of Lessor, Lessor shall commence repairs within eight (8)
4 hours from written notice from County to Lessor. Lessor shall not be responsible for
5 utility interruption caused by matters within the control of the utility companies. Lessor
6 shall not be in default of its repair and maintenance obligations under this Section 10,
7 if Lessor commences the repairs and maintenance within eight (8) hours of the
8 aforementioned matters and thirty (30) days for all others after written notice by
9 County to Lessor of the need for such repairs and maintenance. If, due to the nature
10 of the particular repair or maintenance obligation, more than thirty (30) days are
11 reasonably required to complete it, Lessor shall not be in default under this Section 10
12 if Lessor begins work within this thirty (30) day period and diligently pursues this work
13 to completion.

14 **10.3 County's Right to Make Repairs and Deduct Cost.** If County provides
15 notice to Lessor of an event or circumstance that requires the action of Lessor with
16 respect to the replacement, repair or maintenance to the Premises or Base Building
17 Systems serving the Premises as set forth in Section 10.1 and Lessor fails to provide
18 such action as required by the terms of this Lease within the period specified in
19 Section 10.2, County may (but shall not be obligated to do so) take the required action
20 if: (1) County delivers to Lessor an additional written notice advising Lessor that
21 County intends to take the required action if Lessor does not begin the required repair
22 and/or Lessor does not use due diligence to complete said repairs or maintenance
23 within twenty four (24) hours, after the written notice; and (2) Lessor fails to begin the
24 required work (as defined above) within this twenty four (24) hour period.

25 **10.3.1** Lessor grants to County a license, effective during the Lease
Term, to enter upon those portions of the Premises access to which is reasonably
necessary for County to take such action.

10.3.2 If such action was required under the terms of this Lease to be
taken by Lessor, County shall be entitled to prompt reimbursement by Lessor of
County's reasonable costs and expenses in taking such action, plus interest at the
then prevailing legal rate of interest from the date these costs are paid by the County
until the date of Lessor's repayment. Lessor's obligation to reimburse County shall
survive expiration or earlier termination of this Lease.

10.3.3 If, within thirty (30) days after receipt of County's written demand
for payment of County's costs incurred in taking such action on Lessor's behalf, Lessor
has not paid the invoice or delivered to County a detailed written objection to it, County
may deduct from rent payable by County under this Lease the amount set forth in the
invoice, plus interest at the interest rate described above from the date these costs are
paid by County until the date of County's Rent set off.

10.4 Periodic Services. Lessor shall provide, or cause to be provided, and

1 pay for all Periodic Services, including, interior painting of common areas every three
2 years, if so requested by County; monthly pest control services; quarterly HVAC
3 standard preventative maintenance and changing of air filters; annual fire extinguisher
4 inspections; reset interior and exterior time clocks for time changes; annual roof
5 inspections and maintenance to include roof repairs/replacement; cleaning of roof
6 gutters, drains, and down spouts prior to rainy season. Common areas are defined as
7 set forth in Paragraph 2.3.

8 **11. Alterations and Additions.**

9 **11.1 Improvements by Lessor.**

10 **11.1.1** Lessor to complete and pay for at Lessor's expense all tenant
11 improvement's necessary to provide occupancy to County on the commencement
12 date. All tenant improvements shall be completed as set forth in Exhibit "A-2," Space
13 Plan, Exhibit "B," Leasehold Improvement Agreement, and Exhibit "F," General
14 Construction Specifications for Leased Facilities.

15 **11.1.2** Lessor recognizes and understands that any County
16 improvements requested by the County to be completed by Lessor during the term of
17 this Lease shall be undertaken according to Exhibit "B," Leasehold Improvement
18 Agreement, and Exhibit "F", General Construction Specifications for Leased Facilities.

19 **11.1.3** Lessor recognizes and understands that any County
20 improvements requested by County may be subject to the provisions contained in the
21 California Labor Code (commencing with Section 1720) relating to general prevailing
22 wage rates and other pertinent provisions therein. Lessor and Lessor's contractors
23 may be subject to audit to confirm compliance with wage scale regulations.

24 **11.1.4** Lessor shall comply and stay current with all applicable local,
25 state and federal building codes and laws as from time to time amended, including, but
not limited to, the Americans with Disabilities Act requirements in providing the County
with the improvements described on Exhibit "B."

11.1.5 If any agency, division or department of any governmental entity
with appropriate jurisdiction condemns the Premises or any part of the Premises as
unsafe or not in conformity with any of the laws or regulations controlling their
construction, occupation or use, or orders or requires any alteration, repair or
reconstruction of the Premises the responsible party shall be the Lessor who at its sole
cost and expense (and without any right of reimbursement from County) immediately
effect all necessary alterations and repairs required for the Premises full and exact
compliance.

11.1.6 Lessor shall cause all County improvements to be lien free,
completed at Lessor's cost in a workmanlike manner and in compliance with all

1 applicable law.

2 **11.1.7** County agrees when requested by Lessor to execute and deliver
3 any applications, consents or other instruments required to permit Lessor to complete
4 such County improvements or to obtain permits for the work.

5 **11.1.8** Post occupancy tenant improvements requested by County and
6 completed by Lessor shall be reimbursed by County at Lessor's cost plus ten percent
7 (10%). Lessor's invoices for such improvements shall be itemized according to
8 material, sales tax, labor, and Lessor's ten percent (10%) overhead handling charge.

9 **11.1.9** Due to County fiscal year funding and accounting practices, any
10 costs due to Lessor for reimbursement of tenant improvements during the term must
11 be invoiced and received by the County prior to May 1st of each fiscal year in which
12 services to County were provided to ensure payment.

13 **11.2 Improvements by County.**

14 **11.2.1** Any alterations, improvements or installation of fixtures to be
15 undertaken by County shall have the prior written consent of Lessor. Such consent
16 shall not be unreasonably withheld, conditioned or delayed by Lessor.

17 **11.2.2** All alterations and improvements made, and fixtures installed, by
18 County shall remain County property and may be removed by County at or prior to the
19 expiration of this Lease; provided, however, that such removal does not cause injury or
20 damage to the Leased Premises beyond normal wear and tear.

21 **11.3 Communications Equipment.** County may, from time to time, install
22 maintain, replace and/or remove any satellite dishes, links, duct bank or antennas on
23 the grounds, roof and/or exterior walls or parapet of the Premises as County deems
24 reasonably necessary or desirable, provided County shall first obtain Lessor's written
25 approval, which approval shall not be unreasonably withheld, conditioned, or delayed.
Upon the removal by County of any such satellite dishes, links or antennas, County
shall repair any damage incurred in connection with such removal.

26 **12. Exculpation, Indemnification, and Insurance.**

27 **12.1 Exculpation.** To the fullest extent permitted by law, Lessor, on its behalf
28 and on behalf of all Lessor Parties, as hereinafter defined, waives all claims (in law,
29 equity, or otherwise) against County Parties, as hereinafter defined, arising out of,
30 knowingly and voluntarily assumes the risk of, and agrees that County Parties shall not
31 be liable to Lessor Parties for any of the following: (1) injury to or death of any person;
32 or (2) loss of, injury or damage to, or destruction of any tangible or intangible property,
33 including the resulting loss of use, economic losses, and consequential or resulting
34 damage of any kind from any cause. County Parties shall not be liable under this

1 section regardless of whether the liability results from any active or passive act, error,
2 omission, or negligence of any of County Parties; or is based on claims in which
3 liability without fault or strict liability is imposed or sought to be imposed on any of
4 County Parties. This exculpation Section shall not apply to claims against County
5 Parties to the extent that a final judgment of a court of competent jurisdiction
6 establishes that the injury, loss, damage, or destruction was proximately caused by
7 County Parties' fraud, willful injury to person or property, or violation of law.

8 To the fullest extent permitted by law, County, on its behalf and on behalf of all
9 County Parties, as hereinafter defined, waives all claims (in law, equity, or otherwise)
10 against Lessor Parties, as hereinafter defined, arising out of, knowingly and voluntarily
11 assumes the risk of, and agrees that Lessor Parties shall not be liable to County
12 Parties for any of the following: (1) injury to or death of any person; or (2) loss of, injury
13 or damage to, or destruction of any tangible or intangible property, including the
14 resulting loss of use, economic losses, and consequential or resulting damage of any
15 kind from any cause. Lessor Parties shall not be liable under this Section regardless
16 of whether the liability results from any active or passive act, error, omission, or
17 negligence of any of Lessor Parties; or is based on claims in which liability without fault
18 or strict liability is imposed or sought to be imposed on any of Lessor Parties. This
19 exculpation Section shall not apply to claims against Lessor Parties to the extent that a
20 final judgment of a court of competent jurisdiction establishes that the injury, loss,
21 damage, or destruction was proximately caused by Lessor Parties' fraud, willful injury
22 to person or property, or violation of law.

23 **12.1.1 Definition of "County Parties" and "Lessor Parties".** For
24 purposes of this Section 12, the term "County Parties" refers singularly and collectively
25 to County, Special Districts, their respective Directors, Officers, Board of Supervisors,
agents, employees, and independent contractors as well as to all persons and entities
claiming through any of these persons or entities. The term "Lessor Parties" refers
singularly and collectively to Lessor and the partners, venturers, trustees, and ancillary
trustees of Lessor and the respective officers, directors, shareholders, members,
parents, subsidiaries, and any other affiliated entities, personal representatives,
executors, heirs, assigns, licensees, invites, beneficiaries, agents, servants,
employees, and independent contractors of these persons or entities.

20 **12.1.2 Survival of Exculpation.** The paragraphs of this Section 12
21 shall survive the expiration or earlier termination of this Lease until all claims within the
22 scope of this Section 12 are fully, finally, and absolutely barred by the applicable
23 statutes of limitations.

23 **12.1.3 Lessor's Acknowledgment of Fairness.** Lessor
24 acknowledges that this Section 12 was negotiated with County, that the consideration
25 for it is fair and adequate, and that Lessor had a fair opportunity to negotiate, accept,
reject, modify, or alter it.

///

1 **12.1.4 Waiver of Civil Code Section 1542.** With respect to the
2 exculpation provided in this Section 12, Lessor waives the benefits of Civil Code
3 Section 1542, which provides:

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

9 **12.2 Indemnification and Hold Harmless.**

10 **12.2.1** Lessor shall indemnify and hold harmless the County Parties
11 from any liability, including but not limited to, property damage, bodily damage, bodily
12 injury, or death, or from any services provided by Lessor Parties or any act, error,
13 omission, of Lessor Parties or of any invitee, guest, or licensee of Lessor in, on, or
14 about the Project arising out of, from or in any way relating to this Lease. When
15 indemnifying County Parties, Lessor shall defend at its sole cost and expense,
16 including but not limited to, attorney fees, cost of investigation, defense and
17 settlements or awards, on behalf of the County parties in any claim or action based
18 upon such liability.

19 **12.2.2** County shall indemnify and hold harmless the Lessor Parties
20 from any liability whatsoever, including but not limited to, property damage, bodily
21 injury, or death, based or asserted on events which may occur within the County
22 leased premises and is under the control of the County arising out of or from its use
23 and occupancy relating to this Lease. County Parties shall not indemnify Lessor
24 Parties for liability arising within the County leased Premises when such liability arose
25 out of or from Lessor's responsibilities under the terms of this Lease. County shall
defend at its sole cost and expense, including but not limited to, attorney fees, cost of
investigation, defense and settlements or awards, on behalf of the Lessor Parties in
any claim or action based upon such liability.

12.2.3 With respect to any action or claim subject to indemnification
herein, the indemnifying party shall, at their sole cost, have the right to use counsel of
their choice and shall have the right to adjust, settle, or compromise any such action or
claim without the prior consent of the indemnified party; provided, however, that any
such adjustment, settlement or compromise in no manner whatsoever limits or
circumscribes the indemnifying party's obligation to indemnify as set forth herein.

12.2.4 The indemnifying party's obligation hereunder shall be satisfied
when they have provided the indemnified party the appropriate form of dismissal
relieving the indemnified party from any liability for the action or claim involved.

12.2.5 The specified insurance limits required in this Lease shall in no

1 way limit or circumscribe the indemnifying party's obligation to indemnify as set forth
2 herein.

3 **12.2.6** In the event there is conflict between this clause and California
4 Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code
5 2782. Such interpretation shall not relieve the indemnifying party's obligation to
6 provide indemnification to the fullest extent allowed by law.

7 **12.2.7 Survival of Indemnification.** The paragraphs of this Section 12
8 shall survive the expiration or earlier termination of this Lease until all claims against
9 County Parties involving any of the indemnified matters are fully, finally, and absolutely
10 barred by the applicable statutes of limitations.

11 **12.3 Insurance.**

12 **12.3.1 Lessor's Insurance.** Without limiting or diminishing any
13 indemnification contained within this Lease, Lessor and/or their authorized
14 representatives, including, if any, a property management company, shall procure and
15 maintain or cause to be maintained, at its sole cost and expense, the following
16 insurance coverage during the term of this Lease:

17 **12.3.1.1 Workers' Compensation.** Workers' Compensation
18 Insurance (Coverage A) as prescribed by the laws of the State of California. Policy
19 shall include Employers' Liability (Coverage B) including Occupational Disease with
20 limits not less than One Million Dollars (\$1,000,000) per person per accident. The
21 policy shall be endorsed to waive subrogation in favor of The County of Riverside.

22 **12.3.1.2 Commercial General Liability.** Commercial
23 General Liability Insurance coverage, including but not limited to, premises liability,
24 contractual liability, products/completed operations, personal and advertising injury,
25 cross liability coverage and employment practices liability covering bodily injury,
property damage, and personal injury arising out of or relating, directly or indirectly, to
the design, construction, maintenance, repair, alteration and ownership of the
Premises and all areas appurtenant thereto including claims which may arise from or
out of Lessor's operations, use, and management of the Premises, or the performance
of its obligations hereunder. Policy shall name the County of Riverside, its Special
Districts, Agencies, Districts and Departments, their respective Directors, Officers,
Board of Supervisors, elected and appointed officials, employees, agents, independent
contractors or representatives as an Additional Insured. Policy limits shall not be less
than One Million Dollars (\$1,000,000) per occurrence. If such insurance contains a
general aggregate limit, it shall apply separately to this Lease or be no less than two
(2) times the occurrence limit.

12.3.1.3 Vehicle Liability. If vehicles or licensed mobile
equipment are used on the Project, Lessor shall maintain auto liability insurance for all

1 owned, non-owned or hired automobiles in an amount not less than One Million
2 Dollars (\$1,000,000) per occurrence combined single limit. Policy shall name the
3 County of Riverside, its Special Districts, Agencies, Districts, and Departments, their
4 respective Directors, Officers, Board of Supervisors, elected and appointed officials,
5 employees, agents, independent contractors or representatives as Additional Insured.

6 **12.3.1.4 Property (Physical Damage).**

7 (a) All-Risk real property insurance coverage,
8 including flood, if applicable, for the full replacement cost value of buildings, structures,
9 fixtures, all improvements therein, and building systems on the Project as the same
10 exists at each early anniversary of the term. Policy shall name the County as a Loss
11 Payee as their interests may appear.

12 (b) Boiler and Machinery insurance providing
13 coverage for at least, but not limited to, all high voltage electrical and rotating
14 mechanical equipment on a full replacement cost value basis. Policy shall name the
15 County as a Loss Payee as their interests may appear.

16 (c) During such time, prior to the commencement
17 of this Lease while Lessor is preparing the Premises in accordance with Exhibit "B",
18 Lessor shall keep or require its Contractor to keep in full force and effect, a policy of
19 Course of Construction Insurance covering loss or damage to the Premises for the full
20 replacement value of such work. The Named Insured shall include the Lessor, County
21 and Contractor as their interests appear. Lessor or their Contractor shall be
22 responsible for any deductible payments that result from a loss at the Premises under
23 this coverage. If, at the time of any loss to the property described on Exhibit "B", it is
24 determined that the insurance has not been carried or the insurance does not cover
25 the loss of property being installed, the Lessor shall be responsible to pay the loss
without contribution from the County.

18 **12.3.1.5 General Insurance Provisions – All Lines.**

19 (a) Any insurance carrier providing Lessor's
20 insurance coverage hereunder shall be admitted to the State of California and have an
21 A.M. BEST rating of not less than an A:VIII (A:8) unless such requirements are
22 waived, in writing, by the County Risk Manager. If the County's Risk Manager waives
23 a requirement for a particular insurer such waiver is only valid for that specific insurer
24 and only for one policy term.

25 (b) The Lessor or Lessor's insurance carrier(s)
must declare its insurance deductibles or self-insured retentions. If such deductibles
or self-insured retentions exceed Five Hundred Thousand Dollars (\$500,000) per
occurrence such deductibles and/or retentions shall have the prior written consent of

1 the County Risk Manager before the commencement of the Lease term. Upon
2 notification of deductibles or self insured retentions which are deemed unacceptable to
3 the County, at the election of the County's Risk Manager, Lessor's carriers shall either:
4 1) reduce or eliminate such deductibles or self-insured retentions as respects this
5 Agreement with the County, or 2) procure a bond which guarantees payment of losses
6 and related investigations, claims administration, defense costs and expenses.

5 (c) At the inception of this Lease and annually at
6 the Lessor's insurance policy renewal date(s), the Lessor shall cause their insurance
7 carrier(s) to furnish the County of Riverside with 1) a properly executed original
8 Certificate(s) of Insurance and certified original copies of Endorsements effecting
9 coverage as required herein; or, 2) if requested to do so orally or in writing by the
10 County Risk Manager, provide Original Certified copies of policies including all
11 Endorsements and all attachments thereto, showing such insurance is in full force and
12 effect. Further, said Certificate(s) and policies of insurance shall contain the covenant
13 of the insurance carrier(s) shall provide no less than thirty (30) days written notice be
14 given to the County of Riverside prior to any material modification or cancellation of
15 such insurance, except for cancellation because of non-payment of premium, in which
16 event only thirty (30) days prior notice shall be required.

12 (d) It is understood and agreed by the parties
13 hereto and the Lessor's insurance company(s) that the Certificate(s) of Insurance and
14 policies shall so covenant and shall be construed as primary insurance, and the
15 County's insurance and/or deductibles and/or self-insured retentions or self-insured
16 programs shall not be construed as contributory.

15 **12.3.2 County's Insurance:** County maintains funded programs of
16 Self-Insurance. County shall provide to Lessor a Certificate of Self-Insurance
17 evidencing the County's Self-Insurance for the following coverage, if so requested by
18 Lessor:

18	12.3.2.1 Workers' Compensation	\$3,000,000 per occurrence
19	12.3.2.2 Commercial General Liability	\$3,000,000 per occurrence
20	12.3.2.3 Automobile Liability	\$3,000,000 per occurrence

20 **13. Damage and Destruction.**

21 **13.1 Repair of Damage.** County agrees to notify Lessor in writing promptly of
22 any damage to the Premises resulting from fire, earthquake, or any other identifiable
23 event of a sudden, unexpected, or unusual nature ("Casualty"). If the Premises,
24 whether covered by insurance or not, are damaged by a Casualty, or the Casualty
25 results in the Premises not being provided with Base Building Systems or parking
facilities, and if neither Lessor nor County has elected to terminate this Lease under
this Section 13, Lessor shall promptly and diligently restore Premises, the County
Improvements originally constructed by Lessor, Base Building Systems, and County's

1 parking facilities to substantially the same condition as existed before the Casualty,
2 subject to modifications required by building codes and other laws. If County requests
3 that Lessor make any modifications to the County Improvements in connection with
4 the rebuilding, Lessor may condition its consent to those modifications on: (a)
5 confirmation by Lessor's contractor that the modifications shall not increase the time
6 needed to complete the County Improvements; or (b) an agreement by County that the
7 additional construction period shall not extend the rent abatement period (c)
8 satisfactory arrangements with County to pay the cost of the modifications requested
9 by County.

10 **13.2 Repair Period Notice.** Lessor shall, within thirty (30) days after the date
11 of the Casualty, provide written notice to County indicating the anticipated period for
12 repairing the Casualty ("Repair Period Notice"). The Repair Period Notice shall be
13 accompanied by a certified statement executed by the Contractor retained by Lessor
14 to complete the repairs or, if Lessor has not retained a Contractor, a licensed
15 Contractor not affiliated with Lessor, certifying the Contractor's opinion about the
16 anticipated period for repairing the Casualty. The Repair Period Notice shall also
17 state, if applicable, Lessor's election either to repair or to terminate the Lease under
18 Section 13.3.

19 **13.3 Lessor's Option to Terminate or Repair.** Lessor may elect either to
20 terminate this Lease or to effectuate repairs if: (a) the Repair Period Notice estimates
21 that the period for repairing the Casualty exceeds ninety (90) days from the date of the
22 Casualty; or (b) the estimated repair cost of the Premises, even though covered by
23 insurance, exceeds fifty percent (50%) of the full replacement cost of the Premises.

24 **13.4 County's Option to Terminate.** If (a) the Repair Period Notice provided
25 by Lessor indicates that the anticipated period for repairing the Casualty exceeds
ninety (90) days, County may by written notice to Lessor within thirty (30) days after
such damage or destruction, elect to terminate this Lease by providing written notice
(County's Termination Notice) to Lessor within thirty (30) days after receiving the
Repair Period Notice. If County does not elect to terminate within said thirty (30) day
period, County shall be considered to have waived its' option to terminate.

13.5 Rent Abatement Due to Casualty. Lessor and County agree that
County's Rent shall be fully abated during the period beginning on the later of: (a) the
date of the Casualty; or (b) the date on which County ceases to occupy the Premises
and ending on the date of Substantial Completion of Lessor's restoration obligations
as provided in this Section 13 ("Abatement Period"). If, however, County is able to
occupy and does occupy a portion of the Premises, Rent shall be abated during the
Abatement Period only for the portion of the Premises not occupied by County.

13.6 Damage Near End of Term. Despite any other provision of this Section
13, if the Premises are destroyed or damaged by a Casualty during the last eighteen
(18) months of the original Lease Term, Lessor and County shall each have the option

1 to terminate this Lease by giving written notice to the other of the exercise of that
2 option within thirty (30) days after that damage or destruction, provided, however,
3 County may negate Lessor's election to terminate under this Section 13.6 by electing,
4 within ten (10) days after receipt of Lessor's termination notice, to exercise any
5 unexercised option to extend this Lease and County shall have no right hereunder to
6 terminate said option after it is exercised. If County negates Lessor's election, this
7 Lease shall continue in effect unless Lessor has the right to, and elects to, terminate
8 this Lease under Section 13.3.

9
10 **13.7 Effective Date of Termination; Rent Apportionment.** If Lessor or
11 County elects to terminate this Lease under this Section 13 in connection with a
12 Casualty, this termination shall be effective thirty (30) days after delivery of notice of
13 such election. County shall pay Rent, properly apportioned up to the date of the
14 Casualty. After the effective date of the termination, Lessor and County shall be
15 discharged of all future obligations under this Lease, except for those provisions that,
16 by their terms, survive the expiration or earlier termination of the Lease.

17
18 **13.8 Waiver of Statutory Provisions.** The provisions of this Lease, including
19 those in this Section 13, constitute an express agreement between Lessor and County
20 that applies in the event of any Casualty to the Premises. Lessor and County,
21 therefore, fully waive the provisions of any statute or regulation, for any rights or
22 obligations concerning a Casualty including California Civil Code Sections 1932(2) and
23 1933(4).

24
25 **13.9 Release on Termination.** In the event of any termination of this Lease
in accordance with Section 13, the Parties shall be released therefrom without further
obligation to the other Party, except as may otherwise be specifically set forth in this
Lease and items that have accrued and are unpaid.

17 **14. Eminent Domain.**

18 **14.1 Total Condemnation.** If all of the Premises are condemned by eminent
19 domain, inversely condemned, or sold in lieu of condemnation for any public or quasi-
20 public use or purpose, this Lease will terminate as of the date of title vesting in that
21 proceeding and the Rent will be abated from the date of termination.

22 **14.2 Partial Condemnation.** If any portion of the Premises is condemned by
23 eminent domain, inversely condemned, or sold in lieu of condemnation for any public
24 or quasi-public use or purpose and the partial condemnation renders the Premises
25 unusable for County's business, this Lease will terminate as of the date of title vesting
or order of immediate possession in that proceeding and the Rent will be abated to the
date of termination. If the partial condemnation does not render the Premises
unusable for the business of County and less than forty percent (40%) of the Premises
is condemned, Lessor must promptly restore the Premises to the extent of any
condemnation proceeds recovered by Lessor, excluding the portion lost in the

1 condemnation, and this Lease will continue in full force, except that after the date of
2 the title vesting, the Rent will be adjusted, as reasonably determined by Lessor and
3 County.

4 **14.3 Award.** If the Premises are wholly or partially condemned, Lessor will be
5 entitled to the entire award paid for the condemnation, and County waives any claim to
6 any part of the award from Lessor or the condemning authority. County, however, will
7 have the right to recover from the condemning authority any compensation that may
8 be separately awarded to County in connection with costs in removing County's
9 merchandise, furniture, fixtures, leasehold improvements, and equipment to a new
10 location.

11 **14.4 Temporary Condemnation.** In the event of a temporary condemnation,
12 this Lease will remain in effect, County will continue to pay Rent, and County will
13 receive any award made for the condemnation. If a temporary condemnation remains
14 in effect at the expiration or earlier termination of this Lease, County will pay Lessor
15 the reasonable cost of performing any obligations required of County with respect to
16 the surrender of the Premises. If a temporary condemnation is for a period that
17 extends beyond the Term, this Lease will terminate as of the date of occupancy by the
18 condemning authority and any award will be distributed in accordance with Section
19 14.3.

20 **15. Estoppel Certificates.**

21 **15.1** Within twenty-one (21) days after receipt of a written request by either
22 party, the other party shall execute and deliver to the requesting party an Estoppel
23 Certificate, in the form of the attached Exhibit "G," indicating in the certificate any
24 exceptions to the statements in the certificate that may exist at that time.

25 **16. Subordination, Non-Disturbance, and Attornment.**

16.1 Subordination, Non-Disturbance, and Attornment Agreement. To
carry out the purposes of Section 16.2 and Section 16.3, the Parties agree to execute
a Subordination, Non-Disturbance and Attornment Agreement in the form set forth in
the attached Exhibit "H" or the form required by Landlord's lender, if acceptable to
County.

16.2 Subordination. County agrees that within thirty (30) days after Lessor's
written request, it shall execute the agreement referred to in Section 16.1 that Lessor
reasonably considers necessary to evidence or confirm the subordination or inferiority
of this Lease to the lien of any mortgage, deed of trust or other encumbrance of the
Premises or any renewal, extension, modification, replacement thereof, provided
however, that such Subordination Agreement shall be strictly limited to matters
contained in the Agreement referred to in Section 16.1 and no such Subordination
Agreement shall materially increase any of County's obligations or materially decrease

1 any of County's rights under this Lease, nor shall the possession of County be
2 disturbed, by reason of any foreclosure, sale or other action under any such trust
3 deed, mortgage or other encumbrance.

4 **16.3 Attornment.** If Lessor's interest in the Premises passes to a successor,
5 and provided County has received the Non-Disturbance agreement referred to in
6 Section 16.1, County shall, within thirty (30) days after Lessor's transferee's request,
7 execute the agreement referred to in Section 16.1, thereby agreeing to attorn and to
8 recognize the transferee as the Lessor under this Lease; provided the transfer of
9 Lessor's interest in the Premises was by sale, lease, foreclosure, deed in lieu of
10 foreclosure, exercise of any remedy provided in any encumbrance or operation of law.

11 **17. Breach by Lessor.**

12 **17.1 Lessor's Default.** Except as provided to the contrary in this Lease,
13 Lessor's failure to perform any of its obligations under this Lease shall constitute a
14 default by Lessor under the Lease if the failure continues for thirty (30) days after
15 written notice of the failure from County to Lessor. If the required performance cannot
16 be completed within thirty (30) days, Lessor's failure to perform shall constitute a
17 default under the Lease unless Lessor undertakes to cure the failure within thirty (30)
18 days and diligently and continuously attempts to complete this cure as soon as
19 reasonably possible.

20 **17.2 County's Right to Cure Lessor's Default and Deduct Cost.** Except as
21 provided to the contrary to this Lease, if County provides notice to Lessor of Lessor's
22 failure to perform any of its obligations under this Lease and Lessor fails to provide
23 such action as required by the terms of this Lease within the period specified, County
24 may take the required action if: (a) County delivers to Lessor an additional written
25 notice advising Lessor that County intends to take the required action if Lessor does
not begin the required action within ten (10) days after the written notice; and (b)
Lessor fails to begin the required action within this ten (10) day period.

17.3 Rent Setoff. If, within thirty (30) days after receipt of County's written
demand for payment of County's costs incurred in taking such action on Lessor's
behalf, Lessor has not paid the invoice or delivered to County a detailed written
objection to it, County may deduct from Rent payable by County under this Lease the
amount set forth in the invoice, including transaction costs and attorneys' fees, plus
interest at the then legal rate of interest from the date these costs are paid by the
County until the date of County's Rent setoff.

23 **18. Lessor's Representations and Warranties.** Lessor represents and warrants 24 to County that:

25 **18.1 Title.** Lessor's interest in the property including the Premises is free and
clear of restrictions which would restrict County's rights under this Lease.

1 **18.2 Certificate of Authority.** Lessor covenants that it is a duly constituted
2 under the laws of the state of its organization, and that the person(s) who is acting as
3 its signatory in this Lease is duly authorized and empowered to act for and on behalf of
4 the Lessor. Lessor shall furnish County prior to the execution hereof with evidence of
5 the authority of the signatory to bind the entity or trust as contemplated herein.

6 **18.3 No Litigation.** There are no judicial, quasi-judicial, administrative or
7 other orders, injunctions, moratoria or pending proceedings against Lessor or the
8 Premises which preclude or interfere with, or would preclude or interfere with, the
9 construction contemplated herein or the occupancy and use of the Premises by
10 County for the purposes herein contemplated.

11 **18.4 Easements.** Lessor shall not (a) subdivide, parcel or otherwise divide
12 the Premises, (b) create, modify or terminate any ingress or egress to or from the
13 premises, or (c) create any easements in the Premises, without County's prior written
14 approval, which would have adverse effect on County's tenancy or operations.

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19. Miscellaneous.

19.1 Quiet Enjoyment. Lessor covenants that County shall at all times
during the term of this Lease peaceably and quietly have, hold and enjoy the use of
the Premises so long as County shall fully and faithfully perform the terms and
conditions that it is required to do under this Lease. If the Premises are part of a
building shared with other tenants of Lessor, during County's tenancy, Lessor may
make or permit other tenants to make alterations, renovations and improvements to
those portions of the building not occupied by County. Lessor covenants for itself and
anyone deriving title from or holding title under Lessor that County's access, ingress,
loading and unloading and sufficient parking for County's business shall not
unreasonably be obstructed nor shall the daily business of County be disrupted as a
result of such alterations, renovations and improvements.

19.2 Non-Waiver. No waiver of any provision of this Lease shall be implied
by any failure of either Party to enforce any remedy for the violation of that provision,
even if that violation continues or is repeated. Any waiver by a party of any provision
of this Lease must be in writing. Such written waiver shall affect only the provision
specified and only for the time and in the manner stated in the writing.

19.3 Binding on Successors. The terms and conditions herein contained
shall apply to and bind the heirs, successors in interest, executors, administrators,
representatives and assigns of all the Parties hereto.

19.4 Severability. The invalidity of any provision in this Lease as determined
by a court of competent jurisdiction shall in no way affect the validity of any other
provision hereof.

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1 **19.5 Venue.** Any action at law or in equity brought by either of the Parties
2 hereto for the purpose of enforcing a right or rights provided for by this Lease shall be
3 tried in a court of competent jurisdiction in the County of Riverside, State of California,
4 and the Parties hereto waive all provisions of law providing for a change of venue in
5 such proceedings to any other county.

6 **19.6 Attorneys' Fees.** In the event of any litigation or arbitration between
7 Lessor and County to enforce any of the provisions of this Lease or any right of either
8 Party hereto, the unsuccessful Party to such litigation or arbitration agrees to pay to
9 the successful Party all costs and expenses, including reasonable attorneys' fees,
10 incurred therein by the successful Party, all of which shall be included in and as a part
11 of the judgment rendered in such litigation or arbitration.

12 **19.7 County's Representative.** County hereby appoints the Director of
13 Facilities Management as its authorized representative to administer this Lease.

14 **19.8 Agent for Service of Process.** It is expressly understood and agreed
15 that in the event Lessor is not a resident of the State of California or it is an association
16 or partnership without a member or partner resident of the State of California, or it is a
17 foreign corporation, then in any such event, Lessor shall file with County's Director of
18 Facilities Management, upon its execution hereof, a designation of a natural person
19 residing in the State of California, giving his or her name, residence and business
20 addresses, as its agent for the purpose of service of process in any court action arising
21 out of or based upon this Lease, and the delivery to such agent of a copy of any
22 process in any such action shall constitute valid service upon Lessor. It is further
23 expressly understood and agreed that if for any reason service of such process upon
24 such agent is not feasible, then in such event, Lessor may be personally served with
25 such process out of this county by any means permitted by law and that such service
shall constitute valid service upon Lessor. It is further expressly understood and
agreed that Lessor is amenable to the process so served, submits to the jurisdiction of
the court so obtained and waives any and all objections and protests thereto.

19.9 Entire Lease. This Lease is intended by the Parties hereto as a final
expression of their understanding with respect to the subject matter hereof and as a
complete and exclusive statement of the terms and conditions thereof and supersedes
any and all prior and contemporaneous leases, agreements and understandings, oral
or written, in connection therewith. This Lease may be changed or modified only upon
the written consent of the Parties hereto.

19.10 Interpretation. The Parties hereto have negotiated this Lease at arms
length and have been advised by their respective attorneys, or if not represented by an
attorney, represent that they had an opportunity to be so represented and no provision
contained herein shall be construed against County solely because it prepared this
Lease in its executed form.

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1 **19.11 Time of Essence.** Time is of the essence with respect to the
2 performance of all obligations to be performed or observed by the Parties under this
3 Lease.

4 **19.12 Recording.** Either Lessor or County shall, upon request of the other,
5 execute, acknowledge and deliver to the other a short form memorandum of this
6 Lease for recording purposes. The Party requesting recordation shall be responsible
7 for payment of any fees applicable thereto.

8 **19.13 Consent.** Whenever Lessor's or County's consent is required under any
9 provision of this Lease, it shall not be unreasonably withheld, conditioned or delayed.

10 **19.14 Title.** Lessor covenants that Lessor is well seized of and has good title
11 to the Premises, and Lessor does warrant and will defend the title thereto, and will
12 indemnify County against any damage and expense which County may suffer by
13 reason of any lien, encumbrance, restriction or defect in title or description herein of
14 the Premises. If, at any time, Lessor's title or right to receive Rent and any other sums
15 due hereunder is disputed, County may withhold such sums thereafter accruing until
16 County is furnished satisfactory evidence as to the Party entitled thereto.

17 **19.15 Conveyance by Lessor.** Should Lessor convey the Premises, all rights
18 and obligations inuring to the Lessor by virtue of this Lease shall pass to the grantee
19 named in such conveyance, and the grantor shall be relieved of all obligations or
20 liabilities hereunder, except those theretofore accrued and not discharged.

21 **19.16 Mechanic's Liens.** If any mechanic's or materialmen's lien or liens shall
22 be filed against the Premises for work done or materials furnished to a Party, that
23 Party shall, at its own cost and expense, cause such lien or liens to be discharged
24 within fifteen (15) days after notice thereof by filing or causing to be filed a bond or
25 bonds for that purpose. In the event any notice preliminary to establishing such a lien
(such as the California Preliminary 20-Day Notice) is served on Lessor for work done
on the Premises, Lessor shall immediately forward a copy of such notice to Lessee.

19.17 Surrender. County shall, after the last day of the term or any extension
thereof or upon any earlier termination of such term, surrender and yield up to Lessor
the Premises in good order, condition and state of repair, reasonable wear and tear
and damage by fire or other casualty excepted. County may, but shall not be required
to: (a) patch or paint any walls/surfaces; or (b) remove any fixtures or equipment
installed prior to or during the term of this Lease or any extension thereof.

19.18 Notice. Except as expressly provided elsewhere in this Lease, all
notices and other communication required under this Lease shall be in writing and
delivered by: (a) Certified Mail, postage prepaid, return receipt requested, in the United
States mail; or (b) via an overnight courier that provides written evidence of delivery
and addressed to the Party hereto to whom the same is directed at the addresses set

1 forth in Section 19.18 herein. Either Party hereto may from time to time change its
2 mailing address by written notice to the other Party.

3 **County's Notification Address:**

Lessor's Notification Address:

4 County of Riverside
5 Department of Facilities Management
6 3133 Mission Inn Avenue
7 Riverside, California 92507-4199

YASI, Incorporated,
a California Corporation
2251 San Diego Avenue, Suite B-150
San Diego, California 92110

8 **19.19 Authority.** If Lessor is a corporation, general or limited partnership or
9 individual owner, each individual executing this Lease on behalf of said corporation,
10 partnership, or individual represents and warrants that he or she is duly authorized to
11 execute and deliver this Lease on behalf of said corporation, in accordance with
12 bylaws of said corporation, or as a partner or individual is authorized to execute this
13 Lease and that this Lease is binding upon said corporation and/or partnership or
14 individual.

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1 **19.20. Approval of Supervisors.** Anything to the contrary notwithstanding, this
2 Lease shall not be binding or effective until its approval and execution by the
3 Chairman of the Riverside County Board of Supervisors.

4 Dated: _____

YASI, INCORPORATED, a California
corporation

5
6 By: H. MOKHJARI

7
8 By: M.G. Mokhtari

9 Dated: _____

COUNTY OF RIVERSIDE

10
11 By: _____

Jeff Stone, Chairman
Board of Supervisors

12 **ATTEST:**
13 Nancy Romero
14 Clerk of the Board

15 By: _____
Deputy

16
17 **APPROVED AS TO FORM:**
18 Pamela J. Walls
County Counsel

19 By: Synthia M. Gunzel
20 Cynthia M. Gunzel
21 Deputy County Counsel

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MT:jw
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