

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

113



SUBMITTAL DATE:
May 23, 2012

FROM: Economic Development Agency / Facilities Management

SUBJECT: Lease – Sheriff's Department, Unincorporated Area of Perris

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Lease and authorize the Chairman of the Board to execute the same on behalf of the County; and
2. Find that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities.

BACKGROUND: (Commences on Page 2)

Robert Field

FISCAL PROCEDURES APPROVED
PAUL ANGULO, CPA, AUDITOR-CONTROLLER
BY Samuel Wong 5/30/12
SAMUEL WONG

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 37,364	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 37,364	Budget Adjustment:	No
	Annual Net County Cost:	\$ 233,559	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: 100% Sheriff's Patrol Organization

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: Jennifer L. Sargent
County Executive Office Signature Jennifer L. Sargent

FORM APPROVED COUNTY COUNSEL
 BY: Samuel Wong 5/30/12
 DATE: _____
 Department: Economic Development Agency / Facilities Management
 GUNZEL
 Stanley L. Sniff Jr.
 Sheriff-Coroner-PA

Dept't Recomm.: Consent
 Per Exec. Ofc.: Consent
 Policy
 Policy

Prev. Agn. Ref.: 3.53 of 1/10/2012

District: 5/5

Agenda Number:

3.21

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

BACKGROUND:

On January 10, 2012, the Board of Supervisors approved an In-Principle Form 11 for the Economic Development Agency (EDA), Real Estate Division, to locate indoor warehouse parking space for the Sheriff’s department to secure and preserve 359 Ford Crown Victoria replacement patrol vehicles through FY 2013/14. Currently, there is no County owned warehouse space available.

The Real Estate Division issued a request for proposal and received multiple submittals from area landlords. To assist the Sheriff’s department in achieving their goals the Real Estate Division located the 125,140 square foot warehouse located at 24312 Daytona Cove, in the unincorporated area of Perris. This site meets the departmental requirements and will provide efficient use of secure indoor warehouse space to preserve the Sheriff’s fleet from the outdoor elements. The Sheriff’s department will occupy a portion of the 125,140 square foot warehouse space consisting of 67,110 square feet for months 1-12, then downsize in square footage in months 13-24 to 47,110 square feet, as the fleet vehicles are distributed into service. This newer state of the art warehouse is in turn-key condition and is equipped with a fire sprinkler system to protect the County’s investment. In addition the location of the warehouse provides immediate freeway access at Nuevo Road. The Sheriff’s department will need to provide and supply their own security alarm system. The department will be able to take immediate occupancy upon a fully executed Lease.

Pursuant to the California Environmental Quality Act (CEQA), the Lease was reviewed and determined to be categorically exempt from CEQA under CEQA Guidelines 15301, Class 1 – Existing Facilities. The proposed project, the Lease, is the letting of property involving existing facilities with minor tenant improvement alterations and no expansion of an existing use will occur.

The Lease terms are summarized below:

Lessor:	Perris Citrus Avenue Storage, LP									
Premises Location:	Daytona Business Park 24312 Daytona Cove Perris, CA									
Size:	67,110 square feet months 1-12 47,110 square feet months 13-24									
Term:	Two years, May 1, 2012 through April 30, 2014									
Rent:	<table><tr><td><u>Year 1</u></td><td><u>Year 2</u></td></tr><tr><td>\$.27 per sq. ft.</td><td>\$.32 per sq. ft.</td></tr><tr><td>\$ 18,000.00 per month</td><td>\$ 15,000.00 per month</td></tr><tr><td>\$216,000.00 per year</td><td>\$180,000.00 per year</td></tr></table>	<u>Year 1</u>	<u>Year 2</u>	\$.27 per sq. ft.	\$.32 per sq. ft.	\$ 18,000.00 per month	\$ 15,000.00 per month	\$216,000.00 per year	\$180,000.00 per year	
<u>Year 1</u>	<u>Year 2</u>									
\$.27 per sq. ft.	\$.32 per sq. ft.									
\$ 18,000.00 per month	\$ 15,000.00 per month									
\$216,000.00 per year	\$180,000.00 per year									
Rental Adjustments:	None									
Utilities:	County pays for security alarm and trash, Lessor pays for water and electricity									

(Continued)

BACKGROUND: (Continued)

Custodial:	None, custodial is not required in warehouse space	
Maintenance:	Lessor shall provide and pay for maintenance services	
Option to terminate:	None	
Improvements:	None	
RCIT Costs:	None	
Market Data:	Citrus Park West, 3200 Myers Street, Riverside	.35 psf
	Butler Industrial Center, 2225 Via Cerro, Riverside	.32 psf
	Hunter Park Location, 2050 Spruce Street, Riverside	.30 psf

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

FINANCIAL DATA:

All associated cost for this Lease Agreement will be fully funded through the Sheriff's Department's budget. Sheriff's has budgeted these costs in FY 2011/12. While EDA will front the costs for the Lease Agreement with the property owners, Sheriff's will reimburse EDA for all associated costs. While EDA does not have this budgeted, the EDA is monitoring its budget closely and not requiring a budget adjustment at this time. Any necessary budget adjustments associated with this Lease Agreement will be brought to the Board during the quarterly budget process.

Attachments:
Lease
Exhibit A

Exhibit A

Sheriff's Department Lease Cost Analysis FY 2011/12 24312 Daytona Cove, Perris, California

Total Square Footage to be Leased:

ACTUAL AMOUNTS

Current warehouse:	67,110 SQFT		
Approximate Cost per SQFT (May - June)	\$ 0.27		
Lease Cost per Mnth (May - June)	\$ 18,000.00		
Total Lease Cost (May - June)	\$ 36,000.00		
Total Lease Cost for FY 2011/12		\$ 36,000.00	
Total Lease Cost for FY 2011/12			\$ 36,000.00

Estimated Additional Costs:

EXPECTED AMOUNTS

Utility costs per Square Foot	\$ 0.02		
Estimated Utility Costs per Month	\$ 1,342.20		
Total Estimated Utility Cost for FY 2011/12		\$ 2,684.40	
EDA Lease Management Fee (Based @ 3.79%)		\$ -	
Total Estimated Additional Costs for FY 2011/12		\$ 2,684.40	

ACTUAL AMOUNTS

Utility Cost per Square Foot	\$ 0.02		
Estimated Utility Costs per Month	\$ 1,342.20		
Total Additional Estimated Utility Costs for FY 2011/12 (May-June)	\$ 2,684.40		
EDA Lease Management Fee (Based @ 3.79%)		\$ 1,364.40	
Total Estimated Additional Costs for FY 2011/12		\$ 4,048.80	
Total Estimated Cost Variance for FY 2011/12			\$ 1,364.40
TOTAL ESTIMATED COSTS FOR FY 2011/12			\$ 37,364.40
TOTAL COUNTY COST: 100%			\$ 37,364.40

Exhibit B
Sheriff's Department Lease Cost Analysis FY 2012/13
24312 Daytona Cove, Perris, California

Current Square Feet Occupied:

Warehouse (July-April)	67,110	SQFT	
Warehouse (May-June)	47,110	SQFT	
Approximate Cost per SQFT (July - April)	\$	0.27	
Approximate Cost per SQFT (May - June)	\$	0.32	
Lease Cost per Month (July - April)		\$	18,000.00
Lease Cost per Month (May - June)		\$	15,000.00
Total Lease Cost (July - April)		\$	180,000.00
Total Lease Cost (May - June)		\$	30,000.00
Total Expected Lease Cost for FY 2012/13		\$	210,000.00

Estimated Additional Costs:

Utility Cost per Square Foot	\$	0.02	
Estimated Utility Costs per Month (July - April)		\$	1,342.20
Estimated Utility Costs per Month (May - June)		\$	942.20
Total Estimated Utility Cost for FY 2012/13 (July - April)		\$	13,422.00
Total Estimated Utility Cost for FY 2012/13 (May - June)		\$	1,884.40
EDA Lease Management Fee (Based @ 3.93%)		\$	8,253.00
TOTAL ESTIMATED COST FOR FY 2012/13		\$	233,559.40
TOTAL COUNTY COST: 100%		\$	233,559.40

LEASE

(Sheriff's Department,
24312 Daytona Cove, Perris, California)

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EXHIBITS

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

Site Plan	Exhibit A
Intentionally deleted	Exhibit B
Asbestos	Exhibit C
Confirmation of Lease Information	Exhibit D
Intentionally Deleted	Exhibit E
General Construction Specifications	Exhibit F
Estoppel Certificate	Exhibit G
Subordination, Non-Disturbance & Attornment Agreement	Exhibit H

1 LEASE

2 (Sheriff's Department,

3 24312 Daytona Cove, Perris, California)

4
5 **1. Parties.**

6 **1.1** This Lease ("Lease") is made by and between the **COUNTY OF**
7 **RIVERSIDE**, a political subdivision hereinafter referred to as "County" and **PERRIS**
8 **CITRUS STORAGE LP**, a California limited partnership hereinafter referred to as
9 "Lessor". County and Lessor are hereinafter collectively referred to as the "Parties" or
10 individually as a "Party".

11 **2. Premises.**

12 **2.1 Letting.** Lessor hereby leases to County, and County hereby
13 leases from Lessor, the Premises, for the term, at the rental, and upon all terms,
14 covenants and conditions set forth in this Lease.

15 **2.2 Defined.** The Premises shall consist of that certain portion of the
16 Project, as defined herein, including all improvements therein or to be provided by
17 Lessor under the terms of this Lease, and commonly known as 24312 Daytona Cove,
18 Perris, California, located in the unincorporated area of Perris, County of Riverside,
19 State of California, also identified as Assessor Parcel Number 305-170-035 and
20 generally described as office and warehouse space consisting of approximately
21 125,140 square feet. The Premises shall consist of approximately 67,110 square feet
22 of ground level warehouse space for months one (1) through twelve (12), and
23 approximately 47,110 square feet of ground level warehouse space for months thirteen
24 to fourteen (13-14) as shown on the site plan attached as Exhibit "A". It is understood
25 that the Premises include all appurtenances and easements thereto and the non-
26 exclusive right of ingress and egress at all times to and from the public streets and
27 highways for County, its employees and invitees. The Premises, the building, the
28 Common Areas, the land upon which they are located, along with all other buildings

1 and improvements thereon, are herein collectively referred to as the "Project". It is
2 understood by the Parties the Premise does not include the mezzanine or second story
3 levels of the building.

4 **2.3 Common Areas Defined.** The term "Common Areas" is defined
5 as all areas and facilities outside the Premises and within the exterior boundary line of
6 the Project and interior utility raceways and installations within the Premises that are
7 provided by and designated by the Lessor from time to time for the general non-
8 exclusive use of Lessor, County, and other tenants of the Project and their respective
9 employees, suppliers, shippers, customers, contractors, and invitees, including but not
10 limited to, parking areas, loading and unloading zones, trash areas, roadways,
11 walkways, driveways, and landscaped areas.

12 **2.4 County's Rights-Common Areas.** Lessor grants to County, for
13 the benefit of the County and its employees, suppliers, shippers, customers,
14 contractors, and invitees, during the term of this Lease, the non-exclusive right to use,
15 in common with others entitled to such use, the Common Areas as same may from
16 time to time exist. Lessor shall have the right to promulgate rules and regulations for
17 the management, safety, care, and cleanliness of the Common Areas provided,
18 however, that said rules and regulations shall be subject to the approval of County,
19 which approval shall not be unreasonably withheld. County's prior approval shall be
20 required for any changes to the Common Areas which adversely affect County's use
21 and occupancy of the Premises, the parking, or accessibility of the Premises.

22 **2.5 Condition of Premises.** Lessor shall deliver the Premises to
23 County in a turnkey, and safe condition, free of hazards and debris, on the
24 Commencement Date, and Lessor warrants for the term of this Lease, electrical,
25 plumbing, fire sprinkler, fire suppression system, fire/life/safety system, loading doors, if
26 any, that serve the Premises and all other such elements in the Premises (herein
27 defined as the "Base Building Systems"), other than those installed or constructed by
28

1 County, shall be in safe, hazard free, good operating condition, and, the roof, bearing
2 walls and foundation of the Premises shall be free of material defect.

3 **3. Use.**

4 **3.1** County shall use and occupy the Premises for the purpose of
5 providing warehouse space for use by the Sheriff's Department for Fleet Storage and
6 for any official business of County government or any other legal use which is
7 reasonably related to the operation of a fleet storage facility.. Nothing contained in this
8 Lease shall be construed to require County to occupy the Premises continuously.

9 **4. Term.**

10 **4.1 Commencement.** This Lease shall be effective upon the date of
11 its full execution by the parties hereto. The Term of this Lease shall be for a period of
12 24 months ("Original Term") commencing on the earlier of the date on which County
13 accepts the Premises for occupancy, and provided that County, in its' sole discretion, is
14 satisfied that all leasehold improvements have been completed in accordance with
15 Exhibit "F" if applicable, excepting minor punch list items. The Original Term shall
16 expire at midnight on the last day of the twenty four (24) month term ("Expiration
17 Date").

18 **4.2 Confirmation of Lease Information.** At such time as the
19 Commencement Date of this Lease has been determined, either Party may deliver to
20 the other Party a notice in the form set forth in the attached Exhibit "D". which the
21 receiving Party shall execute, after making any corrections necessary to conform the
22 information to the provisions of this Lease, and return to the forwarding Party within
23 thirty (30) days after receipt. Either Party will use reasonable efforts to deliver the
24 notice to the other Party within thirty (30) days after the Lease Commencement Date.
25 Anything to the contrary notwithstanding, failure to forward or execute said notice shall
26 not invalidate or nullify the provisions of this Lease.

27 **4.3 Delay in Delivery of Premises.** If the Original Term of this Lease
28 has not commenced by 5 days from County's execution of this Lease, County may, at

1 its sole option, either: (a) deduct from any rents that may become due hereunder the
2 sum of \$100 for each day the Premises are not substantially complete and available for
3 occupancy as per paragraph 2.6, after said date, as liquidated damages for failure to
4 provide occupancy in a timely manner as prescribed hereunder. Lessor and County
5 agree that such damages are to be one of the mutually exclusive remedies, as
6 prescribed in this Section 4, for such failure, in that at the time of entering into this
7 Lease it would be impractical and extremely difficult to fix the actual damages that
8 would flow from Lessor's failure to provide occupancy in a timely manner, including, but
9 not limited to, the difference in money between the total sum to be paid by County to
10 another party for rent to Lease such party's real property, if the rental hereunder is less
11 than the rental to be paid such other party; or if the Original Term of this Lease has not
12 commenced by 5 days from County's execution of this Lease , or (b) cancel this Lease,
13 and Lessor hereby waives any and all rights that it may have against County for any
14 costs, expenses and/or charges that Lessor may have incurred as a result of preparing
15 the Premises for occupancy.

16 **4.4 Holding Over.** Any holding over by County after the expiration of
17 said term or any extension thereof shall be deemed a month to month tenancy upon
18 the same terms and conditions of this Lease.

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

21 **5.1 Rent.** County shall pay the sum of \$18,000.00 per month for
22 months one (1) through twelve (12) and; County shall pay the sum of \$15,000.00 per
23 month for months thirteen (13) through twenty four (24) to Lessor as rent for the
24 Leased Premises, payable, in advance, on the first day of the month or as soon
25 thereafter as a warrant can be issued in the normal course of County's business;
26 provided, however, in the event rent for any period during the term hereof which is for
27 less than one (1) full calendar month said rent shall be pro-rated based upon the actual
28 number of days of said month.

1 **6. Lessor's Right to Early Termination.** The Parties hereto recognize and
2 understand that the Lessor shall have the right to terminate this Lease by providing
3 County with ninety (90) days written notice in the event that Lessor receives a firm
4 notice from prospective tenant, or purchaser which will occupy the entire warehouse,
5 and including office space consisting of approximately 125,140 square feet. In the
6 event that Lessor provides County with a termination notice prior to the expiration date
7 or earlier termination date of said Lease, Lessor shall use its best faith efforts to
8 relocate County into smaller storage units within the Daytona Cove Business Park.

9
10 **7. Compliance.**

11 **7.1 Compliance.** Lessor warrants that the Premises and
12 improvements on the Premises shall comply with all applicable State and Federal laws,
13 covenants or restrictions of record, building codes, regulations and ordinances
14 ("Applicable Requirements") as of the Commencement Date of this Lease.,. If the
15 Premises do not comply with said warranty, Lessor shall, promptly after receipt of
16 written notice from County or any governmental agency having jurisdiction over such
17 matters setting forth the nature and extent of such non-compliance, rectify the same at
18 Lessor's expense.. If the Applicable Requirements are hereinafter changed so as to
19 require during the term of this Lease, unless same is the result of the use to which
20 County puts the Premises, the construction of an addition to or an alteration of the
21 Premises, the remediation of any Hazardous Substance as hereinafter defined, or the
22 reinforcement or other physical modification of the Premises Lessor shall, promptly
23 after receipt of written notice from County or any governmental agency having
24 jurisdiction over such matters setting forth the nature and extent of such non-
25 compliance, rectify the same at Lessor's expense.

26 **7.2 Americans With Disabilities.** Lessor to the best of its knowledge
27 warrants and represents the Premises as of the Commencement Date shall be readily
28 accessible to and usable by individuals with disabilities in compliance with Title III of

1 the Americans with Disabilities Act of 1990 and California Title 24, as amended from
2 time to time and regulations issued pursuant thereto and in effect from time to time.
3 Any cost incurred to cause the Premises to comply with said Act shall be borne by
4 Lessor.

5 **7.3 Asbestos and Lead Based Paint.** Lessor warrants and
6 represents the Premises shall be constructed, operated and maintained free of hazard
7 from asbestos and lead based paint, as more fully set forth in the attached Exhibit "C".

8 **7.4 Hazardous Substance.** It is the intent of the Parties to construe
9 the term "Hazardous Substances" in its broadest sense. Hazardous Substance shall
10 be defined as any product, substance, or waste whose presence, use, manufacture,
11 disposal, transportation, or release, either by itself or in combination with other
12 materials, is either: (a) potentially injurious to the public health, safety or welfare, the
13 environment or the Premises; (b) regulated or monitored by any governmental
14 authority; or (c) a basis for potential liability of County to any governmental agency or
15 third party under any applicable statute or common law theory.

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

20 Lessor warrants and represents to County that Lessor has not used, discharged,
21 dumped, spilled or stored any Hazardous Substances on or about the Premises,
22 whether accidentally or intentionally, legally or illegally, and has received no notice of
23 such occurrence and has no knowledge that any such condition exists at the Premises.
24 If any claim is ever made against County relating to Hazardous Substances present at
25 or around the Premises, whether or not such substances are present as of the date
26 hereof, or any such Hazardous Substances are hereafter discovered at the Premises
27 (unless introduced by County, its agents or employees), all costs of removal incurred
28 by, all liability imposed upon, or damages suffered by County because of the same

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

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

22 **7.6 Waste Water.** Lessor shall be responsible for compliance with all
23 Federal, state or local laws, regulations or permits pertaining to storm water pollution,
24 prevention plans ("SWPP") and all National Pollution Discharge Elimination System
25 ("NPDES") laws or regulations adopted or to be adopted by the United States
26 Environmental Protection Agency. Parking lot sweeping shall be done as required by
27 NPDES rules or as needed, at least two times per year, once prior to the rainy season.

28 ///

1 **8. Custodial Services.**

2 **8.1 Custodial Services.** The Sheriff's Department shall provide their
3 own custodial services.

4 **9. Utilities.**

5 **9.1** Lessor to the best of its knowledge warrants and represents to
6 County that at the Commencement date that sufficient utility service to provide water,
7 telecommunications, electric power, natural gas and sewers ("Utilities") necessary to
8 meet County's requirements exists or are available for use by County within the
9 Premises. County shall confirm with the utility providers that the required Utilities are
10 available for the County's intended use. Lessor shall pay for electric and water.

11 **9.2** County shall pay for and install a security system within the leased
12 space which will be used in connection with the Leased Premises. County shall
13 provide, or cause to be provided, and pay for all other utility services, including, but not
14 limited to, natural gas, refuse collection, as may be required in the maintenance,
15 operation and use of the Leased Premises.

16 **10. Repairs and Maintenance.**

17 **10.1 Lessor's Repair and Maintenance Obligations.** Lessor shall, at
18 Lessor's sole expense and in accordance with the terms of this Lease, repair, replace
19 and maintain in attractive condition, good order and function throughout the term in
20 accordance with Exhibit "F", General Construction Specifications for Leased Facilities,
21 (a) the structural portions of the Premises (understood to include the roof, foundation
22 and load bearing walls); (b) the nonstructural portions of the Premises (understood to
23 include the roof covering and membrane) including all Lessor constructed
24 improvements, alterations, fixtures, but excluding interior and exterior lighting, HVAC or
25 heat, telephone and communication systems (c) all systems and equipment, including,
26 but not limited to, Base Premises Systems as heretofore described that serve the
27 Premises; and (d) the exterior portions of the Premises, and real property including, but
28 not limited to, landscaping, driveways, sidewalks, exterior lighting and parking facilities

1 servicing the Premises. It is the intent of this paragraph that Lessor performs any and
2 all building repairs, replacements and maintenance. Lessor agrees to make all repairs
3 to or alterations of the Premises that may become necessary by reason of industry
4 standard for age, wear and tear, deferred maintenance or defects in any construction
5 thereof by Lessor.

6 **10.2 Lessor's Default.** Repairs shall be made promptly when
7 appropriate to keep the applicable portion of the Premises and other items in the
8 condition described in this Section. Lessor understands certain response time is
9 required to ensure County operations continue with minimal interruption to ensure the
10 safety of employees and delivery of services. The commencement of repairs within
11 eight (8) hours from written notice include electrical power. Lessor shall not be in
12 default of its repair and maintenance obligations under this Section 10, if Lessor
13 commences the repairs and maintenance within eight (8) hours of the aforementioned
14 areas and thirty (30) days for all others after written notice by County to Lessor of the
15 need for such repairs and maintenance. If, due to the nature of the particular repair or
16 maintenance obligation, more than thirty (30) days are reasonably required to complete
17 it, Lessor shall not be in default under this Section 10 if Lessor begins work within this
18 thirty (30) day period and diligently pursues this work to completion.

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

1 **10.3.1** Lessor grants to County a license, effective during the
2 Lease Term, to enter upon those portions of the Premises access to which is
3 reasonably necessary for County to take such action.

4 **10.3.2** If such action was required under the terms of this Lease to
5 be taken by Lessor, County shall be entitled to prompt reimbursement by Lessor of
6 County's reasonable costs and expenses in taking such action, plus interest at the then
7 prevailing legal rate of interest from the date these costs are incurred until the date of
8 Lessor's repayment. Lessor's obligation to reimburse County shall survive expiration or
9 earlier termination of this Lease.

10 **10.3.3** If, within thirty (30) days after receipt of County's written
11 demand for payment of County's costs incurred in taking such action on Lessor's
12 behalf, Lessor has not paid the invoice or delivered to County a detailed written
13 objection to it, County may deduct from Rent payable by County under this Lease the
14 amount set forth in the invoice, plus interest at the interest rate described above from
15 the date these costs are incurred until the date of County's Rent set off.

16 **10.4 Emergency Repairs.**

17 **10.4.1** An "Emergency Repair Situation" is defined as the
18 existence of any condition that requires prompt repair, replacement or service to
19 minimize the impact of an event or situation which affects County's ability to conduct
20 business in a neat, clean, safe and functional environment.

21 **10.4.2** If County notifies Lessor of an Emergency Repair Situation
22 which occurs in or about the Premises which is the responsibility of the Lessor to repair
23 or maintain, then Lessor shall commence appropriate repairs or maintenance
24 immediately after notice of the condition is given by County, which notice may be via
25 telephone, facsimile, personal contact or any other means, and Lessor shall thereafter
26 diligently pursue to completion said repairs or maintenance.

27 **10.4.3** If Lessor fails to commence repairs within twenty-four (24)
28 hours of the aforementioned notice, or if the County is unable to contact Lessor

1 or any designated agent within a reasonable time based upon the seriousness of the
2 event or situation, County may, but shall not be so obligated to, cause said repairs or
3 replacements to be made or such maintenance to be performed. Upon demand by
4 County, Lessor shall promptly reimburse County the actual cost and expenses thereof,
5 provided said costs and expenses are reasonable. Should Lessor fail to promptly pay
6 the cost and expenses, County may deduct and offset that amount from Rent payable
7 under this Lease.

8 **10.5 Periodic Services.** Lessor shall provide, or cause to be provided,
9 and pay for all Periodic Services, including, interior painting of common areas every
10 two years, if so requested by County; monthly pest control services; annual fire
11 extinguisher inspections; annual roof inspections and maintenance to include roof
12 repairs/replacement; cleaning of roof gutters, drains, and down spouts prior to rainy
13 season.

14 **11. Alterations and Additions.**

15 **11.1 Improvements by Lessor.**

16 **11.1.1** Lessor recognizes and understands that any County
17 improvements requested by the County, if any to be completed by Lessor during the
18 term of this Lease and have a construction value in excess of \$25,000, shall be
19 undertaken according Exhibit "F", General Construction Specifications for Leased
20 Facilities.

21 **11.1.2** Prevailing wages are required for work done that falls within
22 the definition of "public works" under California Labor Code §1720. "Public works" are
23 defined as "construction, alteration, demolition, installation, or repair work done under
24 contract and paid for in whole or in part out of public funds...." For those projects
25 which are "public works" pursuant to Labor Code §1720.2, the following applies:

26 **11.1.2.1** Lessor shall require that Contractor shall comply with
27 prevailing wage requirements and be subject to restrictions and penalties in
28

1 accordance with §1770 et seq. of the Labor Code which requires prevailing wages be
2 paid to appropriate work classifications in all bid specifications and subcontracts.

3 **11.1.2.2** The Lessor shall require that Contractor shall furnish all
4 subcontractors/employees a copy of the Department of Industrial Relations prevailing
5 wage rates at which Lessor will post at the job site. All prevailing wages shall be
6 obtained by the Lessor/Contractor from:

7 Department of Industrial Relations
8 Division of Labor Statistics and Research
9 455 Golden Gate Avenue, 8th Floor
10 San Francisco, CA 94102

11 **11.1.2.3** Lessor shall require that Contractor shall comply with the
12 payroll record keeping and availability requirement of §1776 of the Labor Code.

13 **11.1.2.4** Lessor shall require that Contractor shall make travel and
14 subsistence payments to workers needed for performance of work in accordance with
15 §1773.8 of the Labor Code.

16 **11.1.2.5** Prior to commencement of work, Lessor shall require that
17 Contractor shall contact the Division of Apprenticeship Standards and comply with
18 §1777.5, §1777.6 and §1777.7 of the Labor Code and applicable regulations.

19 **11.1.3** Lessor shall comply and stay current with all applicable
20 local, state and federal building codes and laws as from time to time amended,
21 including, but not limited to, the Americans with Disabilities Act requirements in
22 providing the County with any requested County improvements.

23 **11.1.4** If any agency, division or department of any governmental
24 entity with appropriate jurisdiction condemns the Premises or any part of the Premises
25 as unsafe or not in conformity with any of the laws or regulations controlling their
26 construction, occupation or use, or orders or requires any alteration, repair or
27 reconstruction of the Premises the responsible party shall be the Lessor who at its sole
28 cost and expense (and without any right of reimbursement from County) immediately

1 effect all necessary alterations and repairs required for the Premises full and exact
2 compliance.

3 **11.1.5** Lessor shall cause all County improvements to be lien free,
4 completed at Lessor's cost in a workmanlike manner and in compliance with all
5 applicable law.

6 **11.1.6** County agrees when requested by Lessor to execute and
7 deliver any applications, consents or other instruments required to permit Lessor to
8 complete such County improvements or to obtain permits for the work.

9 **11.1.7** Post occupancy tenant improvements requested by County
10 and completed by Lessor shall be reimbursed by County at Lessor's cost plus 10%.
11 Lessor's invoices for such improvements shall be itemized according to material, sales
12 tax, labor, and Lessor's 10% overhead handling charge.

13 **11.1.8** Due to County fiscal year funding and accounting practices,
14 any costs due to Lessor for reimbursement of tenant improvements during the term
15 must be invoiced and received by the County prior to May 1st of each fiscal year in
16 which services to County were provided to ensure payment.

17 **11.2 Improvements by County.**

18 **11.2.1** Any alterations, improvements or installation of fixtures to
19 be undertaken by County shall have the prior written consent of Lessor. Such consent
20 shall not be unreasonably withheld, conditioned or delayed by Lessor.

21 **11.2.2** All alterations and improvements made, and fixtures
22 installed, by County shall remain County property and may be removed by County at or
23 prior to the expiration of this Lease; provided, however, that such removal does not
24 cause injury or damage to the Leased Premises beyond normal wear and tear.

25 **11.3 Communications Equipment.** County may, from time to time,
26 install maintain, replace and/or remove any satellite dishes, links, duct bank or
27 antennas on the grounds, roof and/or exterior walls or parapet of the Premises as
28 County deems reasonably necessary or desirable, provided County shall first obtain

1 Lessor's written approval, which approval shall not be unreasonably withheld,
2 conditioned, or delayed. Upon the removal by County of any such satellite dishes, links
3 or antennas, County shall repair any damage incurred in connection with such removal.

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

5 **12.1 Exculpation.** To the fullest extent permitted by law, Lessor, on its
6 behalf and on behalf of all Lessor Parties, as hereinafter defined, waives all claims (in
7 law, equity, or otherwise) against County Parties, as hereinafter defined, arising out of,
8 knowingly and voluntarily assumes the risk of, and agrees that County Parties shall not
9 be liable to Lessor Parties for any of the following: (1) injury to or death of any person;
10 or (2) loss of, injury or damage to, or destruction of any tangible or intangible property,
11 including the resulting loss of use, economic losses, and consequential or resulting
12 damage of any kind from any cause. County Parties shall not be liable under this
13 Section regardless of whether the liability results from any active or passive act, error,
14 omission, or negligence of any of County Parties; or is based on claims in which liability
15 without fault or strict liability is imposed or sought to be imposed on any of County
16 Parties. This exculpation Section shall not apply to claims against County Parties to the
17 extent that a final judgment of a court of competent jurisdiction establishes that the
18 injury, loss, damage, or destruction was proximately caused by County Parties' fraud,
19 willful injury to person or property, or violation of law.

20 **12.1.1 Definition of "County Parties" and "Lessor Parties".**

21 For purposes of this Section 12, the term "County Parties" refers singularly and
22 collectively to County, Special Districts, their respective Directors, Officers, Board of
23 Supervisors, agents, employees, and independent contractors as well as to all persons
24 and entities claiming through any of these persons or entities. The term "Lessor
25 Parties" refers singularly and collectively to Lessor and the partners, venturers,
26 trustees, and ancillary trustees of Lessor and the respective officers, directors,
27 shareholders, members, parents, subsidiaries, and any other affiliated entities,
28

1 personal representatives, executors, heirs, assigns, licensees, invitees, beneficiaries,
2 agents, servants, employees, and independent contractors of these persons or entities.

3 **12.1.2 Survival of Exculpation.** The paragraphs of this Section
4 12 shall survive the expiration or earlier termination of this Lease until all claims within
5 the scope of this Section 12 are fully, finally, and absolutely barred by the applicable
6 statutes of limitations.

7 **12.1.3 Lessor's Acknowledgment of Fairness.** Lessor
8 acknowledges that this Section 12 was negotiated with County, that the consideration
9 for it is fair and adequate, and that Lessor had a fair opportunity to negotiate, accept,
10 reject, modify, or alter it.

11 **12.1.4 Waiver of Civil Code Section 1542.** With respect to the
12 exculpation provided in this Section 12, Lessor waives the benefits of Civil Code
13 Section 1542, which provides:

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

17 **12.2 Indemnification and Hold Harmless.**

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

27 **12.2.2** County shall indemnify and hold harmless the Lessor
28 Parties from any liability whatsoever, including but not limited to, property damage,

1 bodily injury, or death, based or asserted on events which may occur within the County
2 leased premises and is under the control of the County arising out of or from its use
3 and occupancy relating to this Lease. County Parties shall not indemnify Lessor
4 Parties for liability arising within the County leased Premises when such liability arose
5 out of or from Lessor's responsibilities under the terms of this Lease. County shall
6 defend at its sole cost and expense, including but not limited to, attorney fees, cost of
7 investigation, defense and settlements or awards, on behalf of the Lessor Parties in
8 any claim or action based upon such liability.

9 **12.2.3** With respect to any action or claim subject to
10 indemnification herein, the indemnifying party shall, at their sole cost, have the right to
11 use counsel of their choice and shall have the right to adjust, settle, or compromise any
12 such action or claim without the prior consent of the indemnified party; provided,
13 however, that any such adjustment, settlement or compromise in no manner
14 whatsoever limits or circumscribes the indemnifying party's obligation to indemnify as
15 set forth herein.

16 **12.2.4** The indemnifying party's obligation hereunder shall be
17 satisfied when they have provided the indemnified party the appropriate form of
18 dismissal relieving the indemnified party from any liability for the action or claim
19 involved.

20 **12.2.5** The specified insurance limits required in this Lease shall in
21 no way limit or circumscribe the indemnifying party's obligation to indemnify as set forth
22 herein.

23 **12.2.6** In the event there is conflict between this clause and
24 California Civil Code Section 2782, this clause shall be interpreted to comply with Civil
25 Code 2782. Such interpretation shall not relieve the indemnifying party's obligation to
26 provide indemnification to the fullest extent allowed by law.

27 **12.2.7 Survival of Indemnification.** The paragraphs of this
28 Section 12 shall survive the expiration or earlier termination of this Lease until all

1 claims against County Parties involving any of the indemnified matters are fully, finally,
2 and absolutely barred by the applicable statutes of limitations.

3 **12.3 Insurance.**

4 **12.3.1 Lessor's Insurance.** Without limiting or diminishing any
5 indemnification contained within this Lease, Lessor and/or their authorized
6 representatives, including, if any, a property management company, shall procure and
7 maintain or cause to be maintained, at its sole cost and expense, the following
8 insurance coverage during the term of this Lease:

9 **12.3.1.1 Workers' Compensation.** Workers' Compensation
10 Insurance (Coverage A) as prescribed by the laws of the State of California. Policy
11 shall include Employers' Liability (Coverage B) including Occupational Disease with
12 limits not less than \$1,000,000 per person per accident. The policy shall be endorsed
13 to waive subrogation in favor of The County of Riverside.

14 **12.3.1.2 Commercial General Liability.** Commercial
15 General Liability Insurance coverage, including but not limited to, premises liability,
16 contractual liability, products/completed operations, personal and advertising injury,
17 cross liability coverage and employment practices liability covering bodily injury,
18 property damage, and personal injury arising out of or relating, directly or indirectly, to
19 the design, construction, maintenance, repair, alteration and ownership of the
20 Premises and all areas appurtenant thereto including claims which may arise from or
21 out of Lessor's operations, use, and management of the Premises, or the performance
22 of its obligations hereunder. Policy shall name the County of Riverside, its Special
23 Districts, Agencies, Districts and Departments, their respective Directors, Officers,
24 Board of Supervisors, elected and appointed officials, employees, agents, independent
25 contractors or representatives as an Additional Insured. Policy limits shall not be less
26 than \$1,000,000 per occurrence. If such insurance contains a general aggregate limit,
27 it shall apply separately to this Lease or be no less than two (2) times the occurrence
28 limit.

1 **12.3.1.3 General Insurance Provisions – All Lines.**

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

8 (b) The Lessor or Lessor's insurance carrier(s)
9 must declare its insurance deductibles or self-insured retentions. If such deductibles or
10 self-insured retentions exceed \$500,000.00 per occurrence such deductibles and/or
11 retentions shall have the prior written consent of the County Risk Manager before the
12 commencement of the Lease term. Upon notification of deductibles or self insured
13 retentions which are deemed unacceptable to the County, at the election of the
14 County's Risk Manager, Lessor's carriers shall either: 1) reduce or eliminate such
15 deductibles or self-insured retentions as respects this Agreement with the County, or 2)
16 procure a bond which guarantees payment of losses and related investigations, claims
17 administration, defense costs and expenses.

18 (c) At the inception of this Lease and annually at
19 the Lessor's insurance policy renewal date(s), the Lessor shall cause their insurance
20 carrier(s) to furnish the County of Riverside with 1) a properly executed original
21 Certificate(s) of Insurance and certified original copies of Endorsements effecting
22 coverage as required herein; or, 2) if requested to do so orally or in writing by the
23 County Risk Manager, provide original Certified copies of policies including all
24 Endorsements and all attachments thereto, showing such insurance is in full force and
25 effect. Further, said Certificate(s) and policies of insurance shall contain the covenant
26 of the insurance carrier(s) shall provide no less than thirty (30) days written notice be
27 given to the County of Riverside prior to any material modification or cancellation of
28 such insurance. In the event of a material modification or cancellation of coverage, this

1 Lease shall terminate forthwith, unless the County of Riverside receives, prior to such
2 effective date, another properly executed original Certificate of Insurance and original
3 copies of endorsements or certified original policies, including all endorsements and
4 attachments thereto evidencing coverage and the insurance required herein is in full
5 force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf
6 shall sign the original endorsements for each policy and the Certificate of Insurance.
7 The Lease term shall not commence until the County of Riverside has been furnished
8 original Certificate(s) of Insurance and certified original copies of endorsements or
9 policies of insurance including all endorsements and any and all other attachments as
10 required in this Section.

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

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

20	12.3.2.1 Workers' Compensation	\$1,000,000 per occurrence
21	12.3.2.2 Commercial General Liability	\$1,000,000 per occurrence
22	12.3.2.3 Automobile Liability	\$1,000,000 per occurrence

23
24 **13. Damage and Destruction.**

25 **13.1 Repair of Damage.** County agrees to notify Lessor in writing
26 promptly of any damage to the Premises resulting from fire, earthquake, or any other
27 identifiable event of a sudden, unexpected, or unusual nature ("Casualty"). If the
28 Premises, whether covered by insurance or not, are damaged by a Casualty, or the

1 Casualty results in the Premises not being provided with Base Building Systems or
2 parking facilities, and if neither Lessor nor County has elected to terminate this Lease
3 under this Section 13, Lessor shall promptly and diligently restore Premises, the
4 County Improvements originally constructed by Lessor, Base Building Systems, and
5 County's parking facilities to substantially the same condition as existed before the
6 Casualty, subject to modifications required by building codes and other laws. If County
7 requests that Lessor make any modifications to the County Improvements in
8 connection with the rebuilding, Lessor may condition its consent to those modifications
9 on: (a) confirmation by Lessor's contractor that the modifications shall not
10 unreasonably increase the cost, or increase the time needed to complete the County
11 Improvements; or (b) an agreement by County that the additional construction period
12 shall not extend the rent abatement period.

13 **13.2 Repair Period Notice.** Lessor shall, within thirty (30) days after
14 the date of the Casualty, provide written notice to County indicating the anticipated
15 period for repairing the Casualty ("Repair Period Notice"). The Repair Period Notice
16 shall be accompanied by a certified statement executed by the Contractor retained by
17 Lessor to complete the repairs or, if Lessor has not retained a Contractor, a licensed
18 Contractor not affiliated with Lessor, certifying the Contractor's opinion about the
19 anticipated period for repairing the Casualty. The Repair Period Notice shall also state,
20 if applicable, Lessor's election either to repair or to terminate the Lease under Section
21 13.3.

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

27 **13.4 County's Option to Terminate.** If (a) the Repair Period Notice
28 provided by Lessor indicates that the anticipated period for repairing the Casualty

1 exceeds ninety (90) days, or (b) notwithstanding the above, in the event of a
2 substantial or total casualty to the Premises or improvements, County may by written
3 notice to Lessor within thirty (30) days after such damage or destruction of its intention
4 to terminate this Lease, elect to terminate this Lease by providing written notice
5 (County's Termination Notice) to Lessor within thirty (30) days after receiving the
6 Repair Period Notice. If County does not elect to terminate within said thirty (30) day
7 period, County shall be considered to have waived its' option to terminate.

8 **13.5 Rent Abatement Due to Casualty.** Lessor and County agree that
9 County's Rent shall be fully abated during the period beginning on the later of: (a) the
10 date of the Casualty; or (b) the date on which County ceases to occupy the Premises
11 and ending on the date of Substantial Completion of Lessor's restoration obligations as
12 provided in this Section 13 ("Abatement Period"). If, however, County is able to occupy
13 and does occupy a portion of the Premises, Rent shall be abated during the Abatement
14 Period only for the portion of the Premises not occupied by County.

15 **13.6 Damage Near End of Term.** Despite any other provision of this
16 Section 13, if the Premises are destroyed or damaged by a Casualty during the last
17 eighteen (18) months of the original Lease Term, Lessor and County shall each have
18 the option to terminate this Lease by giving written notice to the other of the exercise of
19 that option within thirty (30) days after that damage or destruction, provided, however,
20 County may negate Lessor's election to terminate under this Section 13.6 by electing,
21 within ten (10) days after receipt of Lessor's termination notice, to exercise any
22 unexercised option to extend this Lease. If County negates Lessor's election, this
23 Lease shall continue in effect unless Lessor has the right to, and elects to, terminate
24 this Lease under Section 13.3.

25 **13.7 Effective Date of Termination; Rent Apportionment.** If Lessor
26 or County elects to terminate this Lease under this Section 13 in connection with a
27 Casualty, this termination shall be effective thirty (30) days after delivery of notice of
28 such election. County shall pay Rent, properly apportioned up to the date of the

1 Casualty. After the effective date of the termination, Lessor and County shall be
2 discharged of all future obligations under this Lease, except for those provisions that,
3 by their terms, survive the expiration or earlier termination of the Lease.

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

10 **13.9 Release on Termination.** In the event of any termination of this
11 Lease in accordance with Section 13, the Parties shall be released there from without
12 further obligation to the other Party, except as may otherwise be specifically set forth in
13 this Lease and items that have accrued and are unpaid.

14 **14. Eminent Domain.**

15 **14.1 Total Condemnation.** If all of the Premises are condemned by
16 eminent domain, inversely condemned, or sold in lieu of condemnation for any public or
17 quasi-public use or purpose, this Lease will terminate as of the date of title vesting in
18 that proceeding and the Rent will be abated from the date of termination.

19 **14.2 Partial Condemnation.** If any portion of the Premises is
20 condemned by eminent domain, inversely condemned, or sold in lieu of condemnation
21 for any public or quasi-public use or purpose and the partial condemnation renders the
22 Premises unusable for County's business, this Lease will terminate as of the date of
23 title vesting or order of immediate possession in that proceeding and the Rent will be
24 abated to the date of termination. If the partial condemnation does not render the
25 Premises unusable for the business of County and less than a substantial portion of the
26 Premises is condemned, Lessor must promptly restore the Premises to the extent of
27 any condemnation proceeds recovered by Lessor, excluding the portion lost in the
28 condemnation, and this Lease will continue in full force, except that after the date of the

1 title vesting, the Rent will be adjusted, as reasonably determined by Lessor and
2 County.

3 **14.3 Award.** If the Premises are wholly or partially condemned, Lessor
4 will be entitled to the entire award paid for the condemnation, and County waives any
5 claim to any part of the award from Lessor or the condemning authority. County,
6 however, will have the right to recover from the condemning authority any
7 compensation that may be separately awarded to County in connection with costs in
8 removing County's merchandise, furniture, fixtures, leasehold improvements, and
9 equipment to a new location.

10 **14.4 Temporary Condemnation.** In the event of a temporary
11 condemnation, this Lease will remain in effect, County will continue to pay Rent, and
12 County will receive any award made for the condemnation. If a temporary
13 condemnation remains in effect at the expiration or earlier termination of this Lease,
14 County will pay Lessor the reasonable cost of performing any obligations required of
15 County with respect to the surrender of the Premises. If a temporary condemnation is
16 for a period that extends beyond the Term, this Lease will terminate as of the date of
17 occupancy by the condemning authority and any award will be distributed in
18 accordance with Section 14.3.

19 **15. Estoppel Certificates.**

20 **15.1** Within twenty (20) business days after receipt of a written request
21 by either party, the other party shall execute and deliver to the requesting party an
22 Estoppel Certificate, in the form of the attached Exhibit "G", indicating in the certificate
23 any exceptions to the statements in the certificate that may exist at that time.

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

25 **16.1 Subordination, Non-Disturbance, and Attornment Agreement.**
26 To carry out the purposes of Section 16.2 and Section 16.3, the Parties agree to
27 execute a Subordination, Non-Disturbance and Attornment Agreement in the form set
28 forth in the attached Exhibit "H".

1 **16.2 Subordination.** County agrees that within forty-five (45) business
2 days after Lessor's written request, it shall execute the agreement referred to in
3 Section 16.1 that Lessor reasonably considers necessary to evidence or confirm the
4 subordination or inferiority of this Lease to the lien of any mortgage, deed of trust or
5 other encumbrance of the Premises or any renewal, extension, modification,
6 replacement thereof, provided however, that such Subordination Agreement shall be
7 strictly limited to matters contained in the Agreement referred to in Section 16.1 and no
8 such Subordination Agreement shall materially increase any of County's obligations or
9 materially decrease any of County's rights under this Lease, nor shall the possession of
10 County be disturbed, by reason of any foreclosure, sale or other action under any such
11 trust deed, mortgage or other encumbrance.

12 **16.3 Attornment.** If Lessor's interest in the Premises passes to a
13 successor, and provided County has received the Non-Disturbance agreement referred
14 to in Section 16.1, County shall, within forty-five (45) business days after Lessor's
15 transferee's request, execute the agreement referred to in Section 16.1, thereby
16 agreeing to attorn and to recognize the transferee as the Lessor under this Lease;
17 provided the transfer of Lessor's interest in the Premises was by sale, lease,
18 foreclosure, deed in lieu of foreclosure, exercise of any remedy provided in any
19 encumbrance or operation of law.

20 **17. Breach by Lessor.**

21 **17.1 Lessor's Default.** Except as provided to the contrary in this
22 Lease, Lessor's failure to perform any of its obligations under this Lease shall
23 constitute a default by Lessor under the Lease if the failure continues for thirty (30)
24 days after written notice of the failure from County to Lessor. If the required
25 performance cannot be completed within thirty (30) days, Lessor's failure to perform
26 shall constitute a default under the Lease unless Lessor undertakes to cure the failure
27 within thirty (30) days and diligently and continuously attempts to complete this cure as
28 soon as reasonably possible.

1 **17.2 County's Right to Cure Lessor's Default and Deduct Cost.**

2 Except as provided to the contrary in this Lease, if County provides notice to Lessor of
3 Lessor's failure to perform any of its obligations under this Lease and Lessor fails to
4 provide such action as required by the terms of this Lease within the period specified,
5 County may take the required action if: (a) County delivers to Lessor an additional
6 written notice advising Lessor that County intends to take the required action if Lessor
7 does not begin the required action within ten (10) days after the written notice; and (b)
8 Lessor fails to begin the required action within this ten (10) day period.

9 **17.3 Rent Setoff.** If, within thirty (30) days after receipt of County's

10 written demand for payment of County's costs incurred in taking such action on
11 Lessor's behalf, Lessor has not paid the invoice or delivered to County a detailed
12 written objection to it, County may deduct from Rent payable by County under this
13 Lease the amount set forth in the invoice, including transaction costs and attorneys'
14 fees, plus interest at the then legal rate of interest from the date these costs are
15 incurred until the date of County's Rent setoff.

16 **18. Lessor's Representations and Warranties.** Lessor represents and

17 warrants to County that:

18 **18.1 Title.** County's Leasehold interest in the Premises is free and
19 clear of restrictions which would restrict County's rights under this Lease.

20 **18.2 Certificate of Authority.** Lessor covenants that it is a duly

21 constituted under the laws of the state of its organization, and that the person(s) who is
22 acting as its signatory in this Lease is duly authorized and empowered to act for and on
23 behalf of the Lessor. Lessor shall furnish County prior to the execution hereof with
24 evidence of the authority of the signatory to bind the entity or trust as contemplated
25 herein.

26 **18.3 No Litigation.** There are no judicial, quasi-judicial, administrative

27 or other orders, injunctions, moratoria or pending proceedings against Lessor or the
28 Premises which preclude or interfere with, or would preclude or interfere with, the

1 construction contemplated herein or the occupancy and use of the Premises by County
2 for the purposes herein contemplated.

3 **18.4 Easements.** Lessor shall not (a) subdivide, parcel or otherwise
4 divide the Premises, (b) create, modify or terminate any ingress or egress to or from
5 the premises, or (c) create any easements in the Premises, without County's prior
6 written approval.

7 **19. Miscellaneous.**

8 **19.1 Quiet Enjoyment.** Lessor covenants that County shall at all times
9 during the term of this Lease peaceably and quietly have, hold and enjoy the use of the
10 Premises so long as County shall fully and faithfully perform the terms and conditions
11 that it is required to do under this Lease. If the Premises are part of a building shared
12 with other tenants of Lessor, during County's tenancy, Lessor may make or permit
13 other tenants to make alterations, renovations and improvements to those portions of
14 the building not occupied by County. Lessor shall have the right to lease-out the
15 storage units on the property. Lessor or Broker may tour the facility to prospective
16 tenants but may not allow prospects to touch or get near the vehicles. Lessor shall
17 provide twenty four (24) hour notice to County, via email or phone prior to tours.
18 Lessor covenants for itself and anyone deriving title from or holding title under Lessor
19 that County's access, ingress, loading and unloading and sufficient parking for
20 County's business shall not unreasonably be obstructed nor shall the daily business of
21 County be disrupted as a result of such alterations, renovations and improvements.

22 **19.2 Non-Waiver.** No waiver of any provision of this Lease shall be
23 implied by any failure of either party to enforce any remedy for the violation of that
24 provision, even if that violation continues or is repeated. Any waiver by a party of any
25 provision of this Lease must be in writing. Such written waiver shall affect only the
26 provision specified and only for the time and in the manner stated in the writing.

27
28

1 **19.3 Binding on Successors.** The terms and conditions herein
2 contained shall apply to and bind the heirs, successors in interest, executors,
3 administrators, representatives and assigns of all the Parties hereto.

4 **19.4 Severability.** The invalidity of any provision in this Lease as
5 determined by a court of competent jurisdiction shall in no way affect the validity of any
6 other provision hereof.

7 **19.5 Venue.** Any action at law or in equity brought by either of the
8 Parties hereto for the purpose of enforcing a right or rights provided for by this Lease
9 shall be tried in a court of competent jurisdiction in the County of Riverside, State of
10 California, and the Parties hereto waive all provisions of law providing for a change of
11 venue in such proceedings to any other county.

12 **19.6 Attorneys' Fees.** In the event of any litigation or arbitration
13 between Lessor and County to enforce any of the provisions of this Lease or any right
14 of either party hereto, the unsuccessful party to such litigation or arbitration agrees to
15 pay to the successful party all costs and expenses, including reasonable attorneys'
16 fees, incurred therein by the successful party, all of which shall be included in and as a
17 part of the judgment rendered in such litigation or arbitration.

18 **19.7 County's Representative.** County hereby appoints the
19 Assistant County Executive Officer/EDA as its authorized representative to administer
20 this Lease.

21 **19.8 Agent for Service of Process.** It is expressly understood and
22 agreed that in the event Lessor is not a resident of the State of California or it is an
23 association or partnership without a member or partner resident of the State of
24 California, or it is a foreign corporation, then in any such event, Lessor shall file with
25 County's Assistant County Executive Officer/EDA, upon its execution hereof, a
26 designation of a natural person residing in the State of California, giving his or her
27 name, residence and business addresses, as its agent for the purpose of service of
28 process in any court action arising out of or based upon this Lease, and the delivery to

1 such agent of a copy of any process in any such action shall constitute valid service
2 upon Lessor. It is further expressly understood and agreed that if for any reason
3 service of such process upon such agent is not feasible, then in such event, Lessor
4 may be personally served with such process out of this county and that such service
5 shall constitute valid service upon Lessor. It is further expressly understood and
6 agreed that Lessor is amenable to the process so served, submits to the jurisdiction of
7 the court so obtained and waives any and all objections and protests thereto.

8 **19.9 Entire Lease.** This Lease is intended by the Parties hereto as a
9 final expression of their understanding with respect to the subject matter hereof and as
10 a complete and exclusive statement of the terms and conditions thereof and
11 supersedes any and all prior and contemporaneous leases, agreements and
12 understandings, oral or written, in connection therewith. This Lease may be changed
13 or modified only upon the written consent of the Parties hereto.

14 **19.10 Interpretation.** The Parties hereto have negotiated this Lease at
15 arms length and have been advised by their respective attorneys, or if not represented
16 by an attorney, represent that they had an opportunity to be so represented and no
17 provision contained herein shall be construed against County solely because it
18 prepared this Lease in its executed form.

19 **19.11 Time of Essence.** Time is of the essence with respect to the
20 performance of all obligations to be performed or observed by the Parties under this
21 Lease.

22 **19.12 Recording.** Either Lessor or County shall, upon request of the
23 other, execute, acknowledge and deliver to the other a short form memorandum
24 of this Lease for recording purposes. The Party requesting recordation shall be
25 responsible for payment of any fees applicable thereto.

26 **19.13 Consent.** Whenever Lessor's or County's consent is required
27 under any provision of this Lease, it shall not be unreasonably withheld, conditioned or
28 delayed.

1 **19.14 Title.** Lessor covenants that Lessor is well seized of and has
2 good title to the Premises, and Lessor does warrant and will defend the title thereto,
3 and will indemnify County against any damage and expense which County may suffer
4 by reason of any lien, encumbrance, restriction or defect in title or description herein of
5 the Premises. If, at any time, Lessor's title or right to receive Rent and any other sums
6 due hereunder is disputed, County may withhold such sums thereafter accruing until
7 County is furnished satisfactory evidence as to the Party entitled thereto.

8 **19.15 Conveyance by Lessor.** Should Lessor convey the Premises,
9 all rights and obligations inuring to the Lessor by virtue of this Lease shall pass to the
10 grantee named in such conveyance, and the grantor shall be relieved of all obligations
11 or liabilities hereunder, except those theretofore accrued and not discharged.

12 **19.16 Mechanic's Liens.** If any mechanic's or materialmen's lien or
13 liens shall be filed against the Premises for work done or materials furnished to a Party,
14 that Party shall, at its own cost and expense, cause such lien or liens to be discharged
15 within fifteen (15) days after notice thereof by filing or causing to be filed a bond or
16 bonds for that purpose. In the event any notice preliminary to establishing such a lien
17 (such as the California Preliminary 20-Day Notice) is served on Lessor for work done
18 on the Premises, Lessor shall immediately forward a copy of such notice to Lessee.

19 **19.17 Surrender.** County shall, after the last day of the term or any
20 extension thereof or upon any earlier termination of such term, surrender and yield up
21 to Lessor the Premises in good order, condition and state of repair, reasonable wear
22 and tear and damage by fire or other casualty excepted. County may, but shall not be
23 required to: (a) patch or paint any walls/surfaces; (b) remove any leasehold
24 improvements constructed or installed prior to or during the term of this Lease or any
25 extension thereof; or (c) remove any fixtures or equipment installed prior to or during
26 the term of this Lease or any extension thereof.

27 **19.18 Notice.** Except as expressly provided elsewhere in this Lease, all
28 notices and other communication required under this Lease shall be in writing and

1 delivered by: (a) Certified Mail, postage prepaid, return receipt requested, in the United
2 States mail; or (b) via an overnight courier that provides written evidence of delivery
3 and addressed to the Party hereto to whom the same is directed at the addresses set
4 forth in Section 19.18 herein. Either Party hereto may from time to time change its
5 mailing address by written notice to the other Party.

6
7 **County's Notification Address:**

8 County of Riverside
9 Economic Development Agency – Real Estate Division
10 3403 Tenth St., Suite 500
11 Riverside, California 92501
12 Attention: Deputy Director of Real Estate

13
14 **Lessor's Notification Address:**

15 Perris Citrus Storage, LP
16 410 North Main Street
17 Corona, CA 92880
18 Attention: Laurie Mattson, General Partner

19
20 **19.19 Authority.** If Lessor is a corporation, general or limited partnership
21 or individual owner, each individual executing this Lease on behalf of said corporation,
22 partnership, or individual represents and warrants that he or she is duly authorized to
23 execute and deliver this Lease on behalf of said corporation, in accordance with bylaws
24 of said corporation, or as a partner or individual is authorized to execute this Lease and
25 that this Lease is binding upon said corporation and/or partnership or individual.

26 ///

27 ///

28 ///

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

4 Dated: _____

**PERRIS CITRUS STORAGE LP, a California
corporation**

6 By:  _____
7 Laurie Mattson, Vice President

8 By: _____

9
10 Dated: _____

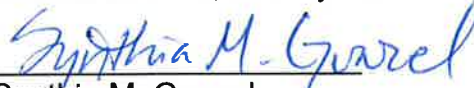
COUNTY OF RIVERSIDE

11 By: _____
12 John Tavaglione, Chairperson
13 Board of Supervisors

14 **ATTEST:**
15 Kecia Harper-Ihem
16 Clerk of the Board

17 By: _____
18 Deputy,

19 **APPROVED AS TO FORM:**
20 PAMELA J. WALLS, County Counsel

21 By:  _____
22 Synthia M. Gunzel
23 Deputy County Counsel

ASBESTOS

- A. Lessor shall operate and maintain the below described spaces free of hazard from asbestos containing construction materials (ACCM's) as defined in Title 15, Sections 1601 and 2607 of the United States Code. An asbestos hazard will be recognized if an average concentration exceeds 0.01 fibers longer than five microns per cubic centimeter of air measured over an eight hour period as determined by the Transmission Electron Microscopy (TEM) method. TEM testing will be mandatory if samples tested by the Phase Contrast Microscopy (PCM) method indicate .1 or more fibers per cc of air.
1. Space leased to the County and plenums in the same HVAC zone.
 2. Common public areas which County employees or its invitees would normally/reasonably use.
 3. Building maintenance areas, utility spaces, and elevator shafts within or serving areas described in items 1 and 2 above.
- B. In the event construction of the building wherein leased premises are located was completed prior to 1979, the Lessor shall provide the County with certification that the areas referred to above are free of asbestos hazard from ACCM's prior to the execution of this lease. If said premises were constructed after 1979, Lessor shall provide County with a written statement to that effect.
- C. Certification shall be in the form of an ACCM's Survey and Evaluation Report prepared by a qualified Industrial Hygienist who shall be certified by the American Board of Industrial Hygiene (ABIH) or an Environmental Protection Agency (EPA) – Asbestos Hazard Emergency Response Act (AHERA) certified inspector. Said survey shall include those areas listed in paragraph (A). Survey requirements are: visual walk-through inspection and testing of suspected ACCM's. Bulk samples of suspected ACCM's shall be analyzed by a laboratory certified by the Department of Health Services and recognized by the EPA Quality Assurance Program using the polarized light microscopy (PLM) method. If friable asbestos is found or the physical condition of suspected ACCM's indicate possible fiber release, air sampling and testing by the Phase Contrast Microscopy (PCM) method must be performed. If asbestos fiber concentrations of .1 fibers per cc of air or greater are found, further testing by the Transmission Electron Microscopy (TEM) method is mandatory. Said survey and evaluation report shall identify all ACCM's found and recommend abatement procedures. If necessary, the report shall also specify guidelines for the implementation of an operation and maintenance plan inclusive of any required monitoring and testing intervals. The report is subject to review and approval by the County and the Lessor shall agree to all conditions contained therein.

- D. If at any time during the term of this lease, or during any extension or renewal hereof, previously unidentified ACCM's hazard is discovered, or airborne asbestos fibers above the maximum allowable limits are found to be entering the County-leased space from any other area within the building or buildings in which the County-leased space is located, the Lessor shall immediately, at Lessor's sole cost and expense, control such release and perform abatement of all hazardous ACCM's that are determined to be affecting the County-leased space.
- E. Lessor shall perform asbestos notification as required by Chapter 10.4 of the Health and Safety Code and shall guarantee that all abatement work as required under the conditions of this lease is performed by a licensed contractor certified by the Contractors State License Board and registered with the Division of Occupational Safety and Health. The County reserves the right to establish consultant oversight of any asbestos related work program at its expense.
- F. Additionally, Lessor shall be responsible for any and all direct or indirect costs associated with the abatement of the above described ACCM's which include, but is not limited to the actual costs to the Lessor for ACCM's abatement and for all required monitoring reports before, during, and after abatement. In effect, all costs shall be borne by the Lessor that are in any way associated with the abatement of ACCM's from the Lessor's building including clean up of contaminated County-owned equipment, furnishings, and materials. Copies of the air monitoring reports shall be furnished to the County together with certification by an Industrial Hygienist Consultant registered with Cal/OSHA that the area is free of hazard from ACCM's.
- G. If it is determined that for safety reasons its employees should be relocated at any time prior to or during the abatement of ACCM's, the Lessor shall provide comparable accommodating space (at no cost to the County) throughout the abatement process. Said determination shall be made by a qualified representative of Cal/OSHA. The Lessor specifically agrees to pay for all costs associated with this move or reimburse the County, if the County paid for this cost, including all reasonable administrative costs and cost of moving or renting furniture, data processing, and telephone equipment.
- H. In the event, after written notice is provided by the County, the Lessor fails, refuses, or neglects to diligently pursue abatement of above described asbestos hazard from ACCM's, the County may effect such abatement; and, in addition to any other remedies it may have, deduct all reasonable costs of such abatement and all costs associated in any way with the abatement of the above described ACCM's from the rent that may then be or thereafter become due throughout the term of this lease. For this purpose and as a condition of this lease agreement, the Lessor shall obtain an EPA generator number and grant license to the County for its use.

- I. In addition to any other remedies it may have, in the event the Lessor fails to diligently pursue abatement of asbestos hazard from ACCM's, as required under the provisions of this lease, the County may, by notice in writing, terminate this lease. Lessor shall be liable to the County for all expenses, losses, and damages reasonably incurred by the County as a result of such termination; including, but not limited to additional rental necessary to pay for an available similar replacement facility over the period of what would have been the remaining balance of the lease term plus any option periods, costs of any necessary alterations to the replacement facility, administrative costs, and costs of moving furniture, data processing, and telephone equipment.

- J. The Lessor shall indemnify, defend, and hold the County of Riverside, its officers, and employees harmless from and against any and all losses, damages, judgements, expenses (including court costs and reasonable attorney fees), or claims whatsoever, arising out of, or in any way connected with or related to, directly or indirectly, the presence of asbestos hazard from ACCM's within the County-leased space or the building in which the leased premises are located.

|
EXHIBIT "D"
CONFIRMATION OF LEASE INFORMATION

1. LEASE REFERENCE DATE: _____
2. PREMISES: _____

3. COMMENCEMENT DATE: Construction of the leasehold improvements is substantially complete and the lease term shall commence as of _____, or a term of _____ ending on _____, unless extended as provided in the Lease.
4. RENT: In accordance with the Lease, Rent began to accrue on _____, in the initial amount of _____ per month. Rent is due and payable in advance on the first day of each month during the Lease Term.

AGREED and ACCEPTED

LESSOR:

COUNTY:

Dated: _____

Dated: _____

ESTOPPEL CERTIFICATE

1. The County of Riverside, as Tenant, for the purpose of providing office space for use by _____ and _____, as Lessor, entered into a written office lease dated _____ in which Lessor leased to County and County leased from Lessor those certain premises consisting of approximately _____ square feet of office space located at _____. The office lease, as amended, modified, and supplemented, is referred to in this Certificate as the "Lease".
2. The Lease has not been amended, modified, nor supplemented, except _____.
3. County has paid Rent through _____. The next payment of Rent is due on _____. The current rent is _____. County has not paid Lessor a security deposit.
4. Under the Lease, the term began on _____, and the expiration date of the Lease is _____ subject to County's right to terminate the Lease and any options the County may have to extend the term as identified in this Certificate.
5. The Lease provides for _____ option(s) to extend the term of the Lease for _____ years each. The rental rate for each extension period is _____.
6. The County has the right of first refusal to renew the Lease, after the original term and any options to extend have expired, on the same terms and conditions as are then being offered by Lessor to bona fide third party prospective lessees.
7. The County has the right to early termination of this Lease if funding is reduced or becomes unavailable or if the County determines for any reason or cause that the Premises are no longer suitable for its use.
8. There are no oral or written amendments, modifications, or supplements to the Lease except as previously stated in this Certificate. A true, correct, and complete copy of the Lease, including all amendments, modifications, and supplements, is attached to this Certificate. The Lease, as amended, modified and supplemented, is in full force and effect and represents the entire agreement between Lessor and the County pertaining to the Premises.
9. All space and improvements leased by County have been completed and furnished in accordance with the provisions of the Lease, and County has accepted and taken possession of the Premises. All contributions required to be paid by Lessor to date for improvements to the Premises have been paid in full.
10. Lessor and County are not in default in the performance of any of the terms and provisions of the Lease. To the best knowledge of each Party, no event or condition has

occurred that, with the giving of notice or passage of time, or both, would constitute such default by Lessor or County.

11. Lessor has not assigned, transferred, or hypothecated the Real Property or any interest in the Real Property.
12. The County has not assigned, transferred, or hypothecated the Lease or any interest in the Lease or subleased all or part of the Premises.
13. There are no mortgagees, beneficiaries under deeds of trust, or other holders of a security interest in the Real Property, except as follows: _____.
14. There are no setoffs or credits against Rent payable under the Lease. No free periods or rental abatements, rebates, or concessions have been granted to County, except as follows: _____.
15. There are no pending actions, voluntary or involuntary, under any bankruptcy or insolvency laws of the United States or any state against either Lessor or County
16. The execution of this Certificate by Lessor and the County does not amend the Lease or waive any of Lessor's or County's rights under the Lease except as specifically provided in this Certificate.
17. This Certificate is given to _____ with the understanding that as a lender or purchaser of the above described real property or assignee of either Lessor or County _____ may rely on it in connection with either the assignment or acquisition of the above described real property or making a loan secured by the above described real property. Following that acquisition, assignment by Lessor or loan, County agrees that the Lease shall remain in full force and effect and shall bind and inure to the benefit of _____ and its successor in interest.

LESSOR: _____

COUNTY:

Robert Field
Assistant County Executive Officer/EDA

RECORDED AT REQUEST OF AND WHEN
RECORDED RETURN TO:

Attention: _____

SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT

This Subordination, Non-disturbance, and Attornment Agreement ("Agreement") is made as of _____ between _____ (Lender), a _____, having its principal place of business at _____, _____, _____ and the County of Riverside (County), by its authorized representative the Assistant County Executive Officer/EDA having its address for notification at 3403 Tenth Street, Suite 500, Riverside, California 92501.

Recitals:

A. Lender has agreed to make a loan to _____, a _____ (Lessor), to be secured by a deed of trust, dated _____, _____, and recorded on _____, _____, as Instrument No. _____, in the Official Records of _____ County, California (together with all amendments, increases, renewals, modifications, consolidations, replacements, substitutions, and extensions, either current or future, referred to hereafter as the "Mortgage") encumbering Lessor's ownership interest in real property located in _____, _____, State of California. The legal description of the encumbered real property (the "Mortgage Premises") is set forth in Exhibit A, attached to this Agreement. The Mortgage, together with the promissory note or notes, the loan agreement(s), and other documents executed in connection with it are hereafter collectively referred to as the "Loan Documents".

B. On _____, _____, County and Lessor entered into a lease for the Mortgage Premises (the Lease). The Lease creates a leasehold estate in favor of County for space (the "Premises") located on the Mortgage Premises.

C. In connection with execution of the Mortgage, Lessor also executed and delivered to Lender an Assignment of Leases, Rents and Profits dated _____, _____, and recorded on _____, _____, as Instrument No. _____, in the Official Records of the County Recorder of _____, California concerning all rents, issues and profits from the Mortgage Premises. This document, together with all amendments, renewals, modifications consolidations, replacements, substitutions and extensions, is hereafter referred to as the "Assignment of Rents."

To confirm their understanding concerning the legal effect of the Mortgage and the Lease, in consideration of the mutual covenants and agreements contained in this Agreement and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged,

Lender and County, intending to be legally bound, agree and covenant as follows:

1. **Representations and Warranties.** County warrants and represents that the Lease is in full force and effect and that, as of the date of this Agreement and to the best of County's knowledge, there is no default under the Lease by Lessor or County.

2. **County Subordination.**

2.1. Subject to the provisions of Section 3, the Loan Documents shall constitute a lien or charge on the Mortgage Premises that is prior and superior to the Lease, to the leasehold estate created by it, and to all rights and privileges of County under it; by this Agreement, the Lease, the leasehold estate created by it, together with all rights and privileges of County under it, is subordinated, at all times, to the lien or charge of the Loan Documents in favor of Lender.

2.2. By executing this Agreement, County subordinates the Lease and County's interest under it to the lien right and security title, and terms of the Loan Documents, and to all advances or payments made, or to be made, under any Loan Document.

3. **Non-disturbance.**

3.1. Lender consents to the Lease.

3.2. Despite County's subordination under Section 2, County's peaceful and quiet possession of the Premises shall not be disturbed and County's rights and privileges under the Lease, including its right to early termination, its right to extend the term of the Lease, its right of first refusal to lease the property after expiration of the original term and any extensions thereof, shall not be diminished by Lender's exercise of its rights or remedies under the Loan Documents, provided that County has not canceled or terminated the Lease, nor surrendered, or abandoned the Premises.

3.3. If (a) Lender shall acquire title to, and possession of, the Premises on foreclosure in an action in which Lender shall have been required to name County as a party defendant, and (b) County is not in default under the Lease beyond any applicable cure or grace periods, has not canceled or terminated the Lease, nor surrendered, vacated or abandoned the Premises and remains in actual possession of the Premises at the time Lender shall so acquire title to, and possession of, the Premises, Lender and County shall enter into a new lease on the same terms and conditions as were contained in the Lease, except that:

(a) The obligations and liabilities of Lender under a new lease shall be subject to the terms and conditions of this Agreement (including the provisions of Sections 5-7);

(b) Lender shall have no obligations or liabilities to County under any such new lease beyond those of Lessor as were contained in the Lease; and

(c) The expiration date of any new lease shall coincide with the original expiration date of the Lease.

3.4. County shall not be named or joined in any foreclosure, trustee's sale, or other proceeding to enforce the Loan Documents unless such joinder shall be legally required to

perfect the foreclosure, trustee's sale, or other proceeding.

4. **Attornment.**

4.1. If Lender shall succeed to Lessor's interest in the Mortgage Premises by foreclosure of the Mortgage, by deed in lieu of foreclosure, or in any other manner, County shall be bound to Lender under all the terms, covenants and conditions of the Lease for the balance of its term with the same force and effect as if Lender were the Lessor under the Lease. County shall be deemed to have full and complete attornment to, and to have established direct privity between County and:

- (a) Lender when in possession of the Mortgage Premises;
- (b) a receiver appointed in any action or proceeding to foreclose the Mortgage;
- (c) any party acquiring title to the Mortgage Premises; or
- (d) any successor to Lessor.

4.2. County's attornment is self-operating, and it shall continue to be effective without execution of any further instrument by any of the parties to this Agreement or the Lease. Lender agrees to give County written notice if Lender has succeeded to the interest of the Lessor under the Lease. The terms of the Lease are incorporated into this Agreement by reference.

4.3. If the interests of Lessor under the Lease are transferred by foreclosure of the Mortgage, deed in lieu of foreclosure, or otherwise, to a party other than Lender (Transferee), in consideration of, and as condition precedent to, County's agreement to attorn to any such Transferee, Transferee shall be deemed to have assumed all terms, covenants, and conditions of the Lease to be observed or performed by Lessor from the date on which the Transferee succeeds to Lessor's interests under the Lease.

5. **Lender as Lessor.** If Lender shall succeed to the interest of Lessor under the Lease, Lender shall be bound to County under all the terms, covenants and conditions of the Lease, and County shall, from the date of Lender's succession to the Lessor's interest under the Lease, have the same remedies against Lender for breach of the Lease that County would have had under the Lease against Lessor; provided, however, that despite anything to the contrary in this Agreement or the Lease, Lender, as successor to the Lessor's interest, shall be:

- (a) liable for any act or omission of the Lessor; provided that the Lender may elect either to perform the pre-existing obligation or to permit the County to perform it and to recover the cost out of Rent;
- (b) subject to any offsets or defenses expressly permitted under the Lease, including abatement rights which County might have had against Lessor;
- (c) bound by any rent or additional rent that County might have paid for more than one month in advance to Lessor; or
- (d) bound by an amendment or modification of the Lease even though

made without Lender's written consent and whether or not the amendment or modification materially adversely affect any right of Lessor under the Lease.

(e) subject to the County 's right to assert continuing claims, such as material interference with the County's use and enjoyment of the premises, against the Lender.

6. **Right To Cure.** County agrees that, before County exercises any of its rights or remedies under the Lease, Lender shall have the right, but not the obligation, to cure the default within the same time given Lessor in the lease to cure the default, plus an additional thirty (30) days or ten (10) days in the case of defaults in the payment of money from Lessor to County. County agrees that the cure period shall be extended by the time necessary for Lender to commence foreclosure proceedings and to obtain possession of the Mortgage Premises, provided that:

(a) Lender shall notify County of Lender's intent to effect its remedy;

(b) Lender initiates immediate steps to foreclose on or to recover possession of the Mortgage Premises;

(c) Lender initiates immediate legal proceedings to appoint a receiver for the Mortgage Premises or to foreclose on or recover possession of the Mortgage Premises within the thirty (30) day period; and

(d) Lender prosecutes such proceedings and remedies with due diligence and continuity to completion.

7. **Assignment of Rents.** If Lessor defaults in its performance of the terms of the Loan Documents, County agrees to recognize the Assignment of Rents made by Lessor to Lender and shall pay to Lender, as assignee, from the time Lender gives County notice that Lessor is in default under the terms of the Loan Documents, the rents under the Lease, but only those rents that are due or that become due under the terms of the Lease after notice by Lender. Payments of rents to Lender by County under the assignment of rents and Lessor's default shall continue until the first of the following occurs:

(a) No further rent is due or payable under the Lease;

(b) Lender gives County notice that the Lessor's default under the Loan Documents has been cured and instructs County that the rents shall thereafter be payable to Lessor;

(c) The lien of the Mortgage has been foreclosed and the purchaser at the foreclosure sale (whether Lender or a Transferee) gives County notice of the foreclosure sale. On giving notice, the purchaser shall succeed to Lessor's interests under the Lease, after which time the rents and other benefits due Lessor under the Lease shall be payable to the purchaser as the owner of the Mortgage Premises.

8. **County's Reliance.** When complying with the provisions of Section 7, County shall be entitled to rely on the notices given by Lender under Section 7, and Lessor agrees to release, relieve, and protect County from and against any and all loss, claim, damage, or liability (including reasonable attorney's fees) arising out of County's compliance with such notice.

County shall be entitled to full credit under the Lease for any rents paid to Lender in accordance with Section 7 to the same extent as if such rents were paid directly to Lessor. Any dispute between Lender (or Lender's Transferee) and Lessor as to the existence of a default by Lessor under the terms of the Mortgage, the extent or nature of such default, or Lender's right to foreclosure of the Mortgage, shall be dealt with and adjusted solely between Lender (or Transferee) and Lessor, and County shall not be made a party to any such dispute (unless required by law).

9. **Lender's Status.** Nothing in this Agreement shall be construed to be an agreement by Lender to perform any covenant of the Lessor under the Lease unless and until it obtains title to the Mortgage Premises by power of sale, judicial foreclosure, or deed in lieu of foreclosure, or obtains possession of the Mortgage Premises under the terms of the Loan Documents.

10. **Cancellation of Lease.** County agrees that it will not cancel, terminate, or surrender the Lease, except at the normal expiration of the Lease term or as provided in the Lease.

11. **Special Covenants.** Despite anything in this Agreement or the Lease to the contrary, if Lender acquires title to the Mortgage Premises, County agrees that: Lender shall have the right at any time in connection with the sale or other transfer of the Mortgage Premises to assign the Lease or Lender's rights under it to any person or entity, and that Lender, its officers, directors, shareholders, agents, and employees shall be released from any further liability under the Lease arising after the date of such transfer, provided that the assignee of Lender's interest assumes Lender's obligations under the Lease, in writing, from the date of such transfer.

12. **Transferee's Liability (Non Recourse).** If a Transferee acquires title to the Mortgage Premises:

(a) County's recourse against Transferee for default under the Lease shall be limited to the Mortgage Premises or any sale, insurance, or condemnation proceeds from the Mortgage Premises;

(b) County shall look exclusively to Transferee's interests described in (a) above for the payment and discharge of any obligations imposed on Transferee under this Agreement or the Lease ; and

(i) Transferee, its officers, directors, shareholders, agents, and employees are released and relieved of any personal liability under the Lease;

(ii) County shall look solely to the interests of Transferee set forth in (a) above, and

(iii) County shall not collect or attempt to collect any judgment out of any other assets, or from any general or limited partners or shareholders of Transferee.

13. **Transferee's Performance Obligations.** Subject to the limitations provided in Sections 11 and 12, if a Transferee acquires title to the Mortgage Premises, the Transferee shall perform and recognize all County improvement allowance provisions, all rent-free and rent rebate provisions, and all options and rights of offer, in addition to Lessor's other obligations under the Lease.

14. **Notice.** All notices required by this Agreement shall be given in writing and shall be deemed to have been duly given for all purposes when:

(a) deposited in the United States mail (by registered or certified mail, return receipt requested, postage prepaid); or

(b) deposited with a nationally recognized overnight delivery service such as Federal Express or Airborne.

Each notice must be directed to the party to receive it at its address stated below or at such other address as may be substituted by notice given as provided in this section.

The addresses are:

Lender: _____

Attention: _____

Copy to: _____

Attention: _____

County: Economic Development Agency
3403 Tenth Street, Suite 500
Riverside, CA 92501
Attention: Deputy Director of Real Estate

Copy to: _____

Attention: _____

Copies of notices sent to the parties' attorneys or other parties are courtesy copies, and failure to provide such copies shall not affect the effectiveness of a notice given hereunder.

15. **Miscellaneous Provisions.**

15.1. This Agreement may not be modified orally; it may be modified only by an agreement in writing signed by the parties or their successors-in-interest. This Agreement shall inure to the benefit of and bind the parties and their successors and assignees.

15.2. The captions contained in this Agreement are for convenience only and in no way limit or alter the terms and conditions of the Agreement.

15.3. This Agreement has been executed under and shall be construed, governed, and enforced, in accordance with the laws of the State of California except to the extent that California law is preempted by the U.S. federal law. The invalidity or unenforceability of one or more provisions of this Agreement does not affect the validity or enforceability of any other provisions.

15.4. This Agreement has been executed in duplicate. Lender and County agree that one (1) copy of the Agreement will be recorded.

15.5. This Agreement shall be the entire and only agreement concerning subordination of the Lease and the leasehold estate created by it, together with all rights and privileges of County under it, to the lien or charge of the Loan Documents and shall supersede and cancel, to the extent that it would affect priority between the Lease and the Loan Documents, any previous subordination agreements, including provisions, if any, contained in the Lease that provide for the subordination of the Lease and the leasehold estate created by it to a deed of trust or mortgage. This Agreement supersedes any inconsistent provision of the Lease.

15.6. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which copies, taken together, shall constitute but one and the same instrument. Signature and acknowledgment pages may be detached from the copies and attached to a single copy of this Agreement to physically form one original document, which may be recorded without an attached copy of the Lease.

15.7 If any legal action or proceeding is commenced to interpret or enforce the terms of this Agreement or obligations arising out of it, or to recover damages for the breach of the Agreement, the party prevailing in such action or proceeding shall be entitled to recover from the non-prevailing party or parties all reasonable attorneys' fees, costs, and expenses it has incurred.

15.8. Word Usage. Unless the context clearly requires otherwise, (a) the plural and singular numbers will each be deemed to include the other; (b) the masculine, feminine, and neuter genders will each be deemed to include the others; (c) "shall," "will," "must," "agrees," and "covenants" are each mandatory; (d) "may" is permissive; (e) "or" is not exclusive; and (f) "includes" and "including" are not limiting.

Executed on the date first above written.

Lender:

a _____

By: _____ [signature]

Its: _____ [state title]

COUNTY OF RIVERSIDE:

By: _____
Bob Buster
Chairman, Board of Supervisors

ATTEST:
Kecia Harper-Ihem
Clerk to the Board

By: _____

APPROVED AS TO FORM:
PAMELA J. WALLS, County Counsel

By: _____
Deputy

Accepted and Agreed To:

Lessor:

_____,
a _____

By: ___[signature]_____
Its: ___[state title]_____

[Exhibit A: Legal description of Mortgage Premises] |