

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

813



**FROM:** Economic Development Agency / Facilities Management

**SUBMITTAL DATE:**  
May 25, 2011

**SUBJECT:** Second Amendment to Lease – Riverside County and Wells Fargo Bank, California

**RECOMMENDED MOTION:** That the Board of Supervisors ratify the attached Second Amendment to Lease and authorize the Chairman of the Board to execute same on behalf of the county.

**BACKGROUND:** In February 1998, the County of Riverside acquired the real property, including the building, from WF Bulk Ceres and assumed the Original Lease as Landlord. The Original Lease has been amended by the First Amendment to Lease dated April 20, 2004, entered into between County and Wells Fargo Bank, NA, a United States corporation and national bank association. Lessee operates two exterior automated teller machines ("ATMs").

(Continued)

Robert Field  
Assistant County Executive Officer/EDA

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

**COMPANION ITEM ON BOARD OF DIRECTORS AGENDA:** No

**SOURCE OF FUNDS:** Wells Fargo Bank

Positions To Be Deleted Per A-30   
Requires 4/5 Vote

**C.E.O. RECOMMENDATION:** APPROVE

BY: Jennifer L. Sargent

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Buster, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley  
Nays: None  
Absent: Tavaglione  
Date: June 7, 2011  
xc: EDA

Kecia Harper-Ihem  
Clerk of the Board  
By: Deputy

Prev. Agn. Ref.: 3.4 of 2/10/98

District: 1

Agenda Number:

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

3.40

EDA-001a-F11

FORM APPROVED COUNTY COUNSEL  
BY: DATE: 5-18-11  
CYNTHIA M. GUNZEL Departmental Concurrence

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

**BACKGROUND: (Continued)**

The facility continues to meet the needs and requirements of the Wells Fargo Bank and they desire to extend the term an additional five years commencing March 1, 2011 and terminating February 29, 2016, along with an option to extend for an additional five years. This Lease is submitted for ratification due to late signature by the Lessee.

The attached Second Amendment to Lease is summarized below:

Lessor's Address:	County of Riverside 3133 Mission Inn Avenue Riverside, California 92507
Location:	600 W. Graham Avenue Lake Elsinore, California 92530
Term:	Effective as of March 1, 2011, through February 29, 2016
Size:	Two ("ATMs") on the exterior of the library
Rent:	\$775.00 monthly

The attached Second Amendment to Lease has been approved as to form by County Counsel.

1                                   **SECOND AMENDMENT TO LEASE**

2                                   **BY AND BETWEEN**

3                                   **THE COUNTY OF RIVERSIDE AND WELLS FARGO BANK, NA**

4

5                   **THIS SECOND AMENDMENT TO LEASE** ("Second Amendment") is made  
6 and entered into as of the June 7, 2011, by and between the **County of**  
7 **Riverside**, a political subdivision of the State of California ("Landlord"), and the **Wells**  
8 **Fargo Bank, N.A.**, a national banking association ("Tenant"), for the property  
9 described below upon the following terms and conditions:

10                   **1. Recitals.**

11                   a.     WF Bulk Ceres, a California limited partnership ("WF Bulk"), as  
12 landlord and Tenant entered into that certain Standard ATM Lease dated February 13,  
13 1998 ("Original Lease") pursuant to which WF Bulk leased to Tenant a portion of that  
14 certain building located at 600 W. Graham Avenue, Lake Elsinore, California  
15 ("Building"), which portion is more particularly described in the Original Lease and  
16 referred to therein as the "Premises".

17                   b.     On or about February 1998, County of Riverside acquired the real  
18 property at 600 W. Graham Ave., Lake Elsinore, including the Building, from WF Bulk  
19 and assumed all the obligations of landlord under the Original Lease.

20                   c.     The Original Lease has been amended by that certain First  
21 Amendment to Lease dated February 24, 2001, entered into between Landlord and  
22 Tenant, ("First Amendment") pursuant to which, among other things, the term of the  
23 Original Lease, as amended, was extended to February 28, 2011.

24                   d.     The Original Lease, as amended by the First Amendment, shall  
25 be referred to as the "Lease".

26                   e.     Landlord and Tenant desire to amend the Lease, among other  
27 things, to extend the term period and provide the rent schedule for the extended term.

28     ///

1           **NOW, THEREFORE**, for good and valuable consideration the receipt and  
2 adequacy of which is hereby acknowledged, the parties agree as follows:

3           **2. Capitalized Terms:** Second Amendment to Prevail. Unless defined  
4 herein or the context requires otherwise, all capitalized terms herein shall have the  
5 meaning defined in the Lease, as heretofore amended. The provisions of this Second  
6 Amendment shall prevail over any inconsistency or conflicting provisions of the Lease,  
7 as heretofore amended, and shall supplement the remaining provisions thereof. The  
8 Lease remains in full force and effect except to the extent amended by this Second  
9 Amendment.

10           **3. Lease Term.** Section 1 of the First Amendment and Section 5 of the  
11 Lease Agreement shall be amended to provide that the term of this Lease shall be and  
12 hereby is extended sixty (60) months commencing on March 1, 2011 and terminating  
13 on February 29, 2016 (the "Extended Term").

14           **4. Rent.** Section 2 of the First Amendment and Section 7 of the Lease  
15 Agreement shall be amended to provide that the monthly rent Tenant shall pay to  
16 Landlord for the Premises during the Extended Term shall be as follows:

<u>Monthly Amount</u>	<u>Year</u>
\$775.00	March 1, 2011 to February 29, 2012
\$775.00	March 1, 2012 to February 28, 2013
\$775.00	March 1, 2013 to February 28, 2014
\$775.00	March 1, 2014 to February 28, 2015
\$775.00	March 1, 2015 to February 29, 2016

21  
22           **5. Option to Extend.** Tenant is hereby granted on (1) option to extend the  
23 term of the Lease for an additional five (5) years, commencing one day following the  
24 expiration of the Extended Term (i.e., commencing on March 1, 2016) and ending on  
25 February 28, 2021, both dates inclusive ("Option Term"), subject to the same terms  
26 and conditions as contained in the Lease, except the rent payable by Tenant to  
27 Landlord for the Premises during the Option Term shall be set for in Section 6 below.

28 ///

1 Tenant must give notice, in writing, to Landlord at least one hundred eighty (180) days  
2 prior to expiration of the Extended Term, in order to exercise this option to extend.

3 **6. Rent During Option Term:** Section 4 of the First Amendment to Lease  
4 shall be amended to provide that if Tenant exercises the option to extend pursuant to  
5 Paragraph 5 above then the monthly rent payable by Tenant for the Premises during  
6 the Option Term shall be as follows:

<u>Monthly Amount</u>	<u>Year</u>
\$852.50	March 1, 2016 to February 28, 2017
\$852.50	March 1, 2017 to February 28, 2018
\$852.50	March 1, 2018 to February 28, 2019
\$852.50	March 1, 2019 to February 29, 2020
\$852.50	March 1, 2020 to February 28, 2021

7  
8  
9  
10  
11  
12 **7. Insurance.** Section 24 of the Lease shall be deleted in its entirety and  
13 replaced as follows:

14 **24. Insurance.** Without limiting or diminishing the Tenant's obligation  
15 to indemnify or hold Landlord harmless, Tenant shall procure and maintain or cause to  
16 be maintained, at its sole cost and expense, the following insurance coverage's during  
17 the term of this Agreement. As respects to the insurance section only, where noted,  
18 Landlord herein refers to the County of Riverside, its Agencies, Districts, Special  
19 Districts, and Departments, their respective directors, officers, Board of Supervisors,  
20 employees, elected or appointed officials, agents or representatives as Additional  
21 Insureds.

22 (a) **Workers' Compensation.** If the Tenant has employees as defined  
23 by the State of California, the Tenant shall maintain statutory Workers' Compensation  
24 Insurance (Coverage A) as prescribed by the laws of the State of California. The policy  
25 shall be endorsed to waive subrogation in favor of The County of Riverside.

26 (b) **Commercial General Liability.** Commercial General Liability  
27 insurance coverage, including but not limited to, premises liability, unmodified  
28 contractual liability, products and completed operations liability, personal and

1 advertising injury, and cross liability coverage, covering claims which may arise from or  
2 out of Tenant's performance of its obligations hereunder. Policy shall name the County  
3 as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per  
4 occurrence combined single limit. If such insurance contains a general aggregate limit,  
5 it shall apply separately to this agreement or be no less than two (2) times the  
6 occurrence limit.

7 (c) Vehicle Liability. If vehicles or mobile equipment are used in the  
8 performance of the obligations under this Agreement, then Tenant shall maintain  
9 liability insurance for all owned, non-owned or hired vehicles so used in an amount not  
10 less than \$1,000,000 per occurrence combined single limit. If such insurance contains  
11 a general aggregate limit, it shall apply separately to this agreement or be no less than  
12 two (2) times the occurrence limit. Policy shall name the County as Additional Insureds.

13 (d) General Insurance Provisions - All lines.

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

20 2) Notwithstanding anything to the contrary contained herein  
21 or within the Lease, Tenant may fulfill its insurance obligations under the Lease by self-  
22 insuring against the risks covered by the insurance required under this Section 24 after  
23 notifying Landlord in writing of its election to self-insure, so long as Tenant has a net  
24 worth of not less than \$100,000,000, as evidenced by its most recent annual public  
25 report. Any such self-insurance shall be deemed insurance required to be carried by  
26 Tenant under the Lease. The foregoing right of self-insurance is limited to Tenant and  
27 successor by merger or acquisition but does not extend to any other assignee or  
28 sublessee. In the event that Tenant elects to maintain all or any portion of such

1 coverages under a program of self-insurance or under policies that include self-insured  
2 retentions or deductibles, Landlord shall have the same rights and protections under  
3 this Lease as if Tenant carried such insurance with a third party insurance company  
4 satisfying the requirements of this lease.

5           3) In the event that Tenant chooses to procure an insurance  
6 policy to satisfy any or all of the insurance requirements contained herein, Tenant shall  
7 cause Tenant's insurance carrier(s) to furnish the County of Riverside with a properly  
8 executed original Certificate(s) of Insurance and copies of endorsements effecting  
9 coverage as required herein, showing such insurance is in full force and effect. Further,  
10 said Certificate(s) (to the extent available by the certificate issuer) shall contain the  
11 covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to  
12 the County of Riverside prior to any material modification, cancellation, expiration or  
13 reduction in coverage of such insurance. In the event of a material modification,  
14 cancellation, expiration, or reduction in coverage, this Agreement shall terminate  
15 forthwith, unless the County of Riverside receives, prior to such effective date, another  
16 properly executed original Certificate of Insurance and original copies of endorsements  
17 or certified original policies, including all endorsements and attachments thereto  
18 evidencing coverage's set forth herein and the insurance required herein is in full force  
19 and effect. Tenant shall not commence operations until the County has been furnished  
20 original Certificate (s) of Insurance and copies of endorsements. An individual  
21 authorized by the insurance carrier to do so on its behalf shall sign the original  
22 endorsements for each policy and the Certificate of Insurance.

23           4) It is understood and agreed to by the parties hereto that the  
24 Tenant's insurance shall be construed as primary insurance, and the County's  
25 insurance and/or deductibles and/or self-insured retentions or self-insured programs  
26 shall not be construed as contributory.

27           5) Tenant shall pass down the insurance obligations contained  
28 herein to all tiers of subcontractors working under this Agreement.

1                   6)     The insurance requirements contained in this Lease may be  
2 met with a program of self-insurance acceptable to the Landlord.

3                   7)     Tenant agrees to notify Landlord of any claim by a third  
4 party or any incident or event that may give rise to a claim arising from the performance  
5 of this Lease.

6                   (e)    Tenant shall carry its own personal property insurance.

7                   (f)    Landlord shall maintain throughout the term of the Lease,  
8 commercial general liability insurance including broad form blanket coverage against  
9 claims for bodily injury, death and/or property damage occurring within, around, or  
10 upon the Building, and contractual liability covering the indemnity set forth in Section  
11 32 of the Lease, as modified hereby, which insurance shall afford "single occurrence"  
12 protection of at least Two Million Dollars (\$2,000,000.00).

13                  (g)    Landlord shall maintain throughout the term of the Lease, all risk  
14 property insurance in an amount equal to the full replacement cost (including  
15 demolition and removal of debris) of the Building.

16                 **8.     Hold Harmless/Indemnification:** Section 32 of the Lease shall be  
17 deleted in its entirety and replaced as follows:

18                   32.    **Indemnity.**

19                   a.     **Landlord Indemnification.**     Tenant shall indemnify  
20 and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and  
21 Departments, their respective directors, officers, Board of Supervisors, elected and  
22 appointed officials, employees, agents and representatives (individually and collectively  
23 hereinafter referred to as "Landlord Indemnitees") from any liability whatsoever, based  
24 or asserted upon, Tenant's use of the Premises and the operation of its business  
25 thereat (or the use thereof by its officers, employees, contractors, agents or  
26 representatives), arising out of or in any way relating to this Agreement , except to the  
27 extent that any such liability is based on or arises out of the negligence or willful  
28 misconduct of any of Landlord's Indemnitees. Tenant shall defend, at its sole expense,



1 all costs and fees including, but not limited, to reasonable attorney fees, reasonable  
2 costs of investigation, defense and settlements or awards, the Landlord Indemnitees in  
3 any claim or action based upon such alleged acts or omissions. With respect to any  
4 action or claim subject to indemnification herein by Tenant, Tenant shall, at its sole  
5 cost, have the right to use counsel of its own choice and shall have the right to adjust,  
6 settle, or compromise any such action or claim without the prior consent of Landlord;  
7 provided, however, that any such adjustment, settlement or compromise in no manner  
8 whatsoever limits or circumscribes Tenant's indemnification to Landlord's Indemnitees  
9 as set forth herein. Tenant's obligation hereunder shall be satisfied when Tenant has  
10 provided to Landlord the appropriate form of dismissal relieving Landlord from any  
11 liability for the action or claim involved. The specified insurance limits required under  
12 the Lease shall in no way limit or circumscribe Tenant's obligations to indemnify and  
13 hold harmless the Landlord Indemnitees herein from third party claims.

14 **b. Landlord Indemnification.** Landlord shall indemnify  
15 and hold harmless Tenant and its respective past and present parent, subsidiaries,  
16 divisions and affiliate corporations, and the respective past and present officers,  
17 directors, shareholders, agents, attorneys and employees of each and all of the  
18 foregoing entities, and its and their respective successors, heirs, assigns and any other  
19 person or entity now, previously, or hereafter affiliated with the same (individually and  
20 collectively hereinafter referred to as "Tenant Indemnitees") from any liability  
21 whatsoever, based or asserted upon Landlord's use and/or operation of the Building (or  
22 the use or operation thereof by its officers, employees, contractors, agents or  
23 representatives), except to the extent that any such liability is based on or arises out of  
24 the negligence or willful misconduct of any of Tenant Indemnitees. Landlord shall  
25 defend, at its sole expense, all costs and fees including, but not limited, to reasonable  
26 attorney fees, reasonable costs of investigation, defense and settlements or awards,  
27 the Tenant Indemnitees in any claim or action based upon such alleged acts or  
28 omissions. With respect to any action or claim subject to indemnification herein by

1 Landlord, Landlord shall, at its sole cost, have the right to use counsel of its own choice  
2 and shall have the right to adjust, settle, or compromise any such action or claim  
3 without the prior consent of Tenant; provided, however, that any such adjustment,  
4 settlement or compromise in no manner whatsoever limits or circumscribes Landlord's  
5 indemnification to Tenant Indemnitees as set forth herein. Landlord's obligation  
6 hereunder shall be satisfied when Landlord has provided to Tenant the appropriate  
7 form of dismissal relieving Tenant from any liability for the action or claim involved.

8 **9. Release from Liability.** Section 33 of the Lease shall be deleted in its  
9 entirety and replaced with the following:

10 **33. Release from Liability.** Notwithstanding Section 32 or any other  
11 provisions of this Lease, in no event shall either party be liable to the other for  
12 consequential damages resulting from a breach of this Lease.

13 **10. Notices.** Section 27 of the Lease shall be amended to provide that any  
14 notices required or desired to be served by either party upon the other shall be  
15 addressed to the respective parties as set forth below:

LANDLORD	TENANT
County of Riverside Economic Development Agency Real Estate Division 3403 Tenth Street, Suite 500 Riverside, California 92501	Wells Fargo Corp Properties Group Attn: Lease Mgmt MAC D1116-L10 BE: 198595 1525 West W.T. Harris Blvd. Charlotte, NC 28262 T: 704.374.6098 F: 704.590.0436  with copy to: Wells Fargo Bank Corporate Properties Group (MAC#E2064-072) BE: 198595 333 So. Grand Avenue, Suite 700 Los Angeles, Ca 90071 Attn: Lease Administration

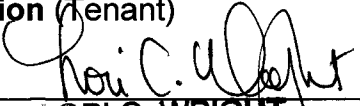
1 or to such other addresses as from time to time shall be designated by the respective  
2 parties.

3 11. Except as modified or supplemented by this Second Amendment to  
4 Lease, all provisions of this Lease shall remain in full force and effect.

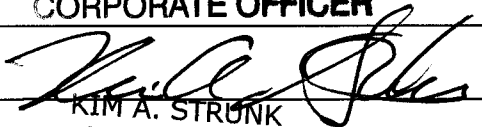
5 12. This Second Amendment to Lease shall not be binding or consummated  
6 until its approval by the Board of Supervisors of Riverside County.

7 Dated: \_\_\_\_\_

8 **WELLS FARGO BANK, NATIONAL**  
9 **ASSOCIATION, a national banking**  
10 **association (Tenant)**

11 By: 

12 **LORI C. WRIGHT**  
13 **CORPORATE OFFICER**

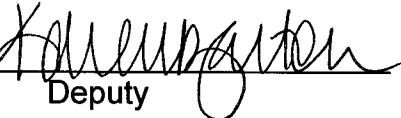
14 Its: \_\_\_\_\_  
15 By: 

16 **KIM A. STRUNK**  
17 **NEGOTIATOR**

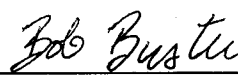
18 Its: \_\_\_\_\_

19 **ATTEST:**

20 **Kecia Harper-Ihem**  
21 **Clerk of the Board**

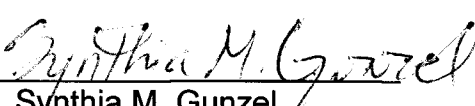
22 By:   
23 **Deputy**

24 **COUNTY OF RIVERSIDE**

25 By:   
26 **Bob Buster, Chairman**  
27 **Board of Supervisors**

28 **APPROVED AS TO FORM:**

**Pamela J. Walls**  
**County Counsel**

By:   
**Synthia M. Gunzel**  
**Deputy County Counsel**

MH:ad/042511/LE025/13.872

EXHIBIT 'A' 1/3

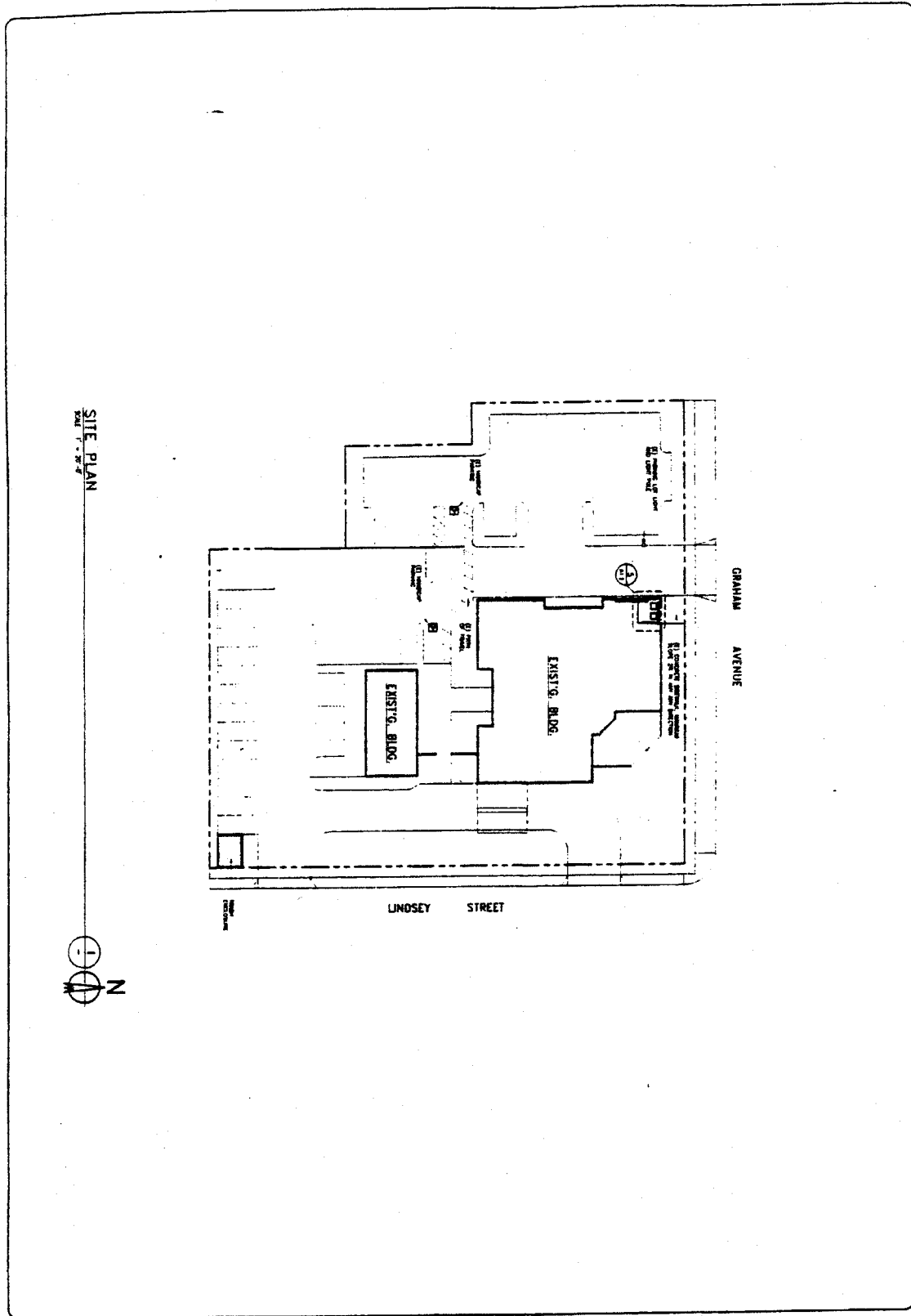


EXHIBIT "A"

**A11**

**SITE PLAN**

DATE  
01/23/97  
01/20/97

**WELLS FARGO BANK**  
600 GRAHAM AVENUE  
LAKE ELSINORE, CA 92530

**AYERS CORPORATION**  
22801 E. La Palma Avenue  
Yorba Linda, CA 92887  
Telephone: (714) 862-8400  
Fax: (714) 862-8420  
6336-A Potrero Posa Road  
Livermore, CA 94550  
Telephone: (510) 294-8940  
Fax: (510) 294-8950