

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

618



FROM: Economic Development Agency / Facilities Management

SUBMITTAL DATE:

April 19, 2012

SUBJECT: Lease – Probation Department, Riverside

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)

FISCAL PROCEDURES APPROVED
PAUL ANGULO, CPA, AUDITOR-CONTROLLER
BY Samuel Wong 4/17/12
SAMUEL WONG

Robert Field
Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 115,997	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No	
SOURCE OF FUNDS: AB109/117 & 118 100% State Funding	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

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Buster, Tavaglione, Stone and Ashley
Nays: None
Absent: Benoit
Date: May 1, 2012
xc: EDA, Auditor, Probation

Kecia Harper-Ihem
Clerk of the Board
By [Signature]
Deputy

Prev. Agn. Ref.: 3.56 of 7/26/2011

District: 1/1

Agenda Number:

3.15

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
BY: Synthia M. Gunzel 4-10-12
DATE: 4-10-12
SYNTHIA M. GUNZEL
Departmental Concurrence

Alan M. Crogan
Chief Probation Officer

Dept's Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

BACKGROUND: (Continued)

On December 13, 2011, the Board of Supervisors approved an In-Principle Form 11 for the Economic Development Agency (EDA), Real Estate Division, to locate additional suitable office space to meet the Probation's office space requirement as a result of AB 109/117 and the 118 Criminal Justice Alignment.

The Real Estate Division issued a Request for Proposal and received multiple submittals from area landlords. The 12,397 square foot facility located at 1201 Research Park Drive, Riverside, meets the departmental requirements and will provide efficient use of new space to support Probations new staff and expansion of Probations infrastructure. This 12,397 square foot facility is completely furnished and is in turn-key condition with the exception of telecom room improvements. The Landlord is to provide and install electrical and air conditioning systems in the telecom room. A ten percent contingency has been added into the total cost for the telcom room requirement. Probation shall reimburse Landlord upon receipt of an itemized statement and approval of improvements. The department will be able to take immediate occupancy upon execution of a Lease Agreement.

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:	J.D. Guthrie, LLC
Premises Location:	1201 Research Park Drive, Suite 100 Riverside, California 92507
Size:	12,397 sq. ft.
Term:	Five years, April 1, 2012 through March 31, 2017
Rent:	\$ 1.00 per sq. ft. \$ 12,397.00 per month \$148,764.00 per year
Rental Adjustments:	Three percent annually
Utilities:	County pays for phone and electric, Lessor pays for all other utility services
Custodial:	Lessor shall provide and pay for custodial services
Maintenance:	Lessor shall provide and pay for maintenance services

(Continued)

BACKGROUND: (Continued)

Option to terminate: Sixty days written notice, due to loss of funding

Improvements: Not to exceed \$6,507.00; this amount includes a 10% contingency fee

RCIT Costs: \$66,180.00

Market Data: 7888-7898 Mission Grove Parkway South, Riverside \$1.75 psf
6465 Sycamore Canyon Boulevard, Riverside \$1.95 psf
1650 Spruce Street, Riverside \$1.99 psf

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

FINANCIAL DATA:

All associated costs for this Lease Agreement will be fully funded through the Probation Department's budget. Probation has budgeted these costs in FY 2011/12. While EDA will front the costs for the Lease Agreement with the property owners, Probation 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

Probation Department Lease Cost Analysis FY 2011/12 1201 Research Park Drive, Suite 100, Riverside, California 92507

Total Square Footage to be Leased:

ACTUAL AMOUNTS

Proposed Office:	12,397 SQFT		
Approximate Cost per SQFT (April - June)	\$ 1.00		
Lease Cost per Month (April - June)	\$ 12,397.00		
Total Lease Cost (April - June)	\$ 37,191.00		
Total Actual Lease Cost for FY 2011/12		<u>\$ 37,191.00</u>	
Total Lease Cost Variance for FY 2011/12			\$ 37,191.00

ACTUAL AMOUNTS

Utility Cost per Square Foot	\$ 0.12		
Costs per Month (April - June)	<u>\$ 1,487.64</u>		
Total Estimated Actual Utility Cost for FY 2011/12		\$ 4,462.92	
RCIT		\$ 66,180.00	
Tenant Improvements		\$ 6,507.00	
EDA Lease Management Fee (Based @ 3.79%)		<u>\$ 1,656.15</u>	
Total Estimated Additional Actual Cost for FY 2011/12			<u>\$ 78,806.07</u>
Total Estimated Additional Cost Variance for FY 2011/12			<u>\$ 78,806.07</u>
TOTAL ESTIMATED COST FOR FY 2011/12			<u><u>\$ 115,997.07</u></u>

LEASE

(Probation Department,
1201 Research Park Drive, Suite 100,
Riverside, California 92507)

Table of Contents

1.	Parties.....	2
2.	Premises.....	2
	2.1 Letting	2
	2.2 Defined	3
	2.3 Common Area Defined	3
	2.4 County's Rights – Common Area	3
	2.5 Preparation of Premises/Acceptance	3
	2.6 Condition of Premises	3
3.	Use	4
4.	Term	4
	4.1 Commencement	4
	4.2 Confirmation of Lease Information	4
	4.3 Delay in Delivery of Premises	5
	4.4 Holding Over	5
5.	Rent	5
	5.1 Rent	5
	5.2 Percentage Increase	6
	5.3 Tenant Improvement Reimbursement	6
6.	Options	6
	6.1 Right of First Refusal to Lease Additional Space	6
	6.2 Right of First Refusal to Extend Lease Term	6
	6.3 County's Right to Early Termination.....	7
7.	Compliance.....	7
	7.1 Compliance	7
	7.2 Americans With Disabilities	8
	7.3 Asbestos and Lead Based Paint.....	8
	7.4 Hazardous Substance	8
	7.5 Sick Building Syndrome	9
	7.6 Waste Water	9
8.	Custodial Services	10
	8.1 Custodial Services	10
	8.2 County's Right to Provide Custodial Services and Deduct Costs.....	10
9.	Utilities	11
10.	Repairs and Maintenance	11
	10.1 Lessor's Repair and Maintenance Obligations.....	11
	10.2 Lessor's Default	12
	10.3 County's Right to Make Repairs and Deduct Cost.....	12
	10.4 Emergency Repairs	13

	10.5	Periodic Services	14
11.		Alterations and Additions	14
	11.1	Improvements by Lessor	14
	11.2	Improvements by County	16
	11.3	Communications Equipment	17
12.		Exculpation, Indemnification, and Insurance	17
	12.1	Exculpation	17
	12.2	Indemnification and Hold Harmless	18
	12.3	Insurance	20
13.		Damage and Destruction	24
	13.1	Repair of Damage	24
	13.2	Repair Period Notice	24
	13.3	Lessor's Option to Terminate or Repair	25
	13.4	County's Option to Terminate	25
	13.5	Rent Abatement Due to Casualty	25
	13.6	Damage Near End of Term	25
	13.7	Effective Date of Termination; Rent Apportionment	26
	13.8	Waiver of Statutory Provisions	26
	13.9	Release on Termination	26
14.		Eminent Domain	26
	14.1	Total Condemnation	26
	14.2	Partial Condemnation	27
	14.3	Award	27
	14.4	Temporary Condemnation	27
15.		Estoppel Certificates	28
16.		Subordination, Non-Disturbance and Attornment	28
	16.1	Subordination, Non-Disturbance and Attornment Agreement	28
	16.2	Subordination	28
	16.3	Attornment	28
17.		Breach by Lessor	29
	17.1	Lessor's Default	29
	17.2	County's Right to Cure Lessor's Default and Deduct Cost	29
	17.3	Rent Setoff	29
18.		Lessor's Representations and Warranties	29
	18.1	Title	30
	18.2	Certificate of Authority	30
	18.3	No Litigation	30
	18.4	Easements	30
19.		Miscellaneous	30
	19.1	Quiet Enjoyment	30
	19.2	Non Waiver	31
	19.3	Binding on Successors	31
	19.4	Severability	31
	19.5	Venue	31
	19.6	Attorney's Fees	31
	19.7	County's Representative	31

19.8 Agent for Service of Process	32
19.9 Entire Lease	32
19.10 Interpretation	32
19.11 Time of Essence	33
19.12 Recording	33
19.13 Consent	33
19.14 Title	33
19.15 Conveyance by Lessor	33
19.16 Mechanic's Liens	33
19.17 Surrender	34
19.18 Notice	34
19.19 Authority	35
19.20 Approval of Supervisors	36

EXHIBITS

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

Site Plan.....	Exhibit A
Tenant Improvements.....	Exhibit B
Asbestos.....	Exhibit C
Confirmation of Lease Information.....	Exhibit D
Custodial Services Agreement.....	Exhibit E
Estoppel Certificate.....	Exhibit G
Subordination, Non-Disturbance & Attornment Agreement.....	Exhibit H

1 LEASE

2 (Probation Department,

3 1201 Research Park Drive, Suite 100, Riverside, California 92507)

4 **1. Parties.**

5 **1.1** This Lease ("Lease") is made by and between the **COUNTY OF**
6 **RIVERSIDE**, a political subdivision hereinafter referred to as "County" and **J.D.**
7 **GUTHRIE LLC**, a Limited Liability Company hereinafter referred to as "Lessor".
8 County and Lessor are hereinafter collectively referred to as the "Parties" or individually
9 as a "Party".

10 **2. Premises.**

11 **2.1 Letting.** Lessor hereby leases to County, and County hereby
12 leases from Lessor, the Premises, for the term, at the rental, and upon all terms,
13 covenants and conditions set forth in this Lease.

14 **2.2 Defined.** The Premises shall consist of that certain portion of the
15 Project, as defined herein, including all improvements therein or to be provided by
16 Lessor under the terms of this Lease, and commonly known as 1201 Research Park,
17 Suite 100, located in the City of Riverside, County of Riverside, State of California, also
18 identified as Assessor Parcel Number 257-030-020 and generally described as office
19 space consisting of approximately 12,397 square feet with four per thousand
20 unreserved parking spaces as shown on the site plan attached as Exhibit "A". It is
21 understood that the Premises include all appurtenances and easements thereto and
22 the non-exclusive right of ingress and egress at all times to and from the public streets
23 and highways for County, its employees and invitees. The Premises, the building, the
24 Common Areas, the land upon which they are located, along with all other buildings
25 and improvements thereon, are herein collectively referred to as the "Project".

26 **2.3 Common Areas Defined.** The term "Common Areas" is defined
27 as all areas and facilities outside the Premises and within the exterior boundary line of
28 the Project and interior utility raceways and installations within the Premises that are

1 provided by and designated by the Lessor from time to time for the general non-
2 exclusive use of Lessor, County, and other tenants of the Project and their respective
3 employees, suppliers, shippers, customers, contractors, and invitees, including but not
4 limited to, parking areas, loading and unloading zones, trash areas, roadways,
5 walkways, driveways, and landscaped areas.

6 **2.4 County's Rights-Common Areas.** Lessor grants to County, for
7 the benefit of the County and its employees, suppliers, shippers, customers,
8 contractors, and invitees, during the term of this Lease, the non-exclusive right to use,
9 in common with others entitled to such use, the Common Areas as same may from
10 time to time exist. Lessor shall have the right to promulgate rules and regulations for
11 the management, safety, care, and cleanliness of the Common Areas provided,
12 however, that said rules and regulations shall be subject to the approval of County.
13 County's prior approval shall be required for any changes to the Common Areas which
14 adversely affect County's use and occupancy of the Premises, the parking, or
15 accessibility of the Premises.

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

21 **2.6 Condition of Premises.** Lessor shall deliver the Premises to
22 County in a turnkey, furnished and safe condition, free of hazards and debris, entirely
23 permitted and inspected by local authorities, on the Commencement Date, and Lessor
24 warrants for the term of this Lease, that all systems and equipment, including, but not
25 limited to, electrical, plumbing, fire sprinkler, fire suppression system, fire/life/safety
26 system, elevators, security systems, lighting, heating, ventilating and air conditioning
27 systems ("HVAC"), loading doors, if any, that serve the Premises and all other such
28 elements in the Premises (herein defined as the "Base Building Systems"), other than

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

4 **3. Use.**

5 **3.1** County shall use and occupy the Premises for the purpose of
6 providing office space for use by the Probation Department for Administrative Services,
7 but the Premises may be used for any official business of County government or any
8 other legal use which is reasonably comparable thereto. Nothing contained in this
9 Lease shall be construed to require County to occupy the Premises continuously.

10 **4. Term.**

11 **4.1 Commencement.** This Lease shall be effective upon the date of
12 its full execution by the parties hereto. The Term of this Lease shall be for a period of
13 60 months ("Original Term") commencing on the earlier of the date on which County
14 accepts the Premises for occupancy, and provided that County, in its' sole discretion, is
15 satisfied that all leasehold improvements have been completed in accordance with
16 Exhibit "B" and Exhibit "F", excepting minor punch list items. The Original Term shall
17 expire at midnight on the last day of the sixty (60) month term ("Expiration 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 30 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 \$12,397.00 per month to
22 Lessor as rent for the Leased Premises, payable, in advance, on the first day of the
23 month or as soon thereafter as a warrant can be issued in the normal course of
24 County's business; provided, however, in the event rent for any period during the term
25 hereof which is for less than one (1) full calendar month said rent shall be pro-rated
26 based upon the actual number of days of said month.

1 **5.2 Percentage Increase.** Notwithstanding the provisions of Section
2 5.1 herein, the monthly rent shall be increased on each anniversary of this Lease by an
3 amount equal to three percent (3 %) of such monthly rental.

4 **5.3 Tenant Improvement Reimbursement.** Notwithstanding the
5 provisions of Section 5.1 and 5.2 above, County shall pay to Lessor a one-time
6 payment not to exceed \$5,915.00 upon receipt of an itemized statement, and
7 completion and acceptance of the improvements by County as provided in Exhibit "B",
8 Section 8 of this Lease.

9 **6. Options.**

10 **6.1 Right of First Refusal to Lease Additional Space.** Lessor
11 hereby grants to County for the first eighteen months (18) a right of first refusal to lease
12 the other premises in the building containing the leased Premises ("Adjacent
13 Premises"), in the event Lessor received a bona fide offer from a third party to lease
14 any portion of the Adjacent Premises, which offer is acceptable to Lessor. Lessor shall
15 promptly notify County in writing of the offer, including the square footage of the portion
16 of the Adjacent Premises proposed to be let and other terms and conditions of the
17 offer. County shall have fifteen (15) days within which to notify Lessor in writing
18 whether County agrees to lease the portion of the Adjacent Premises under such offer
19 upon the terms and conditions set forth in such offer. In the event County fails to give
20 written notice of its election to lease the proposed additional space, Lessor shall be
21 free to accept the bona fide offer and lease the Adjacent Premises to the third party. If
22 the third party fails to lease such portion of the Adjacent Premises and the Adjacent
23 Premises (or remaining portion of the Adjacent Premises) remains available; County
24 shall have the same right of first refusal granted herein with regard to any future offer to
25 lease such portion of the Adjacent Premises.

26 **6.2 Right of First Refusal to Extend Lease Term.** At such time as
27 the Original Term and/or Extended Terms have expired, in further consideration of the
28 Rent, Covenants, and Conditions to be paid, performed, and observed by County,

1 Lessor hereby grants to County a right of first refusal to extend the Lease of the
2 Premises. In the event Lessor receives a bona fide offer from a third party to lease the
3 Premises, which offer is acceptable to Lessor, Lessor shall promptly notify County in
4 writing of the offer, including the amount of rent offered and other terms and conditions
5 of the offer. County shall have ninety (90) business days within which to notify Lessor
6 in writing whether County agrees to extend the Lease of the Premises on the same
7 terms and conditions as the third party offer. In the event County elects to extend the
8 Lease of the Premises, the Lease shall be subject to the same terms and conditions as
9 the third party offer, including, but not limited to, amount of rent, term, and
10 commencement date. In the event County fails to give written notice of its election to
11 extend the Lease of the Premises, Lessor shall be free to accept the bona fide offer
12 and lease the Premises to the third party. If the third party fails to lease the Premises
13 and the Premises remains available, County shall have the same right of first refusal
14 granted herein with respect to a bona fide offer to lease the Premises by a subsequent
15 third party offer.

16 **6.3 County's Right to Early Termination.** The Parties hereto
17 recognize and understand that the rental consideration hereunder originates from
18 County, State and/or Federal sources, and therefore County shall have the right to
19 terminate this Lease (a) if such funding is reduced or otherwise becomes unavailable,
20 based on County's annual fiscal budget, or (b) if any law, rule or regulation precludes,
21 prohibits or materially adversely impairs County's ability to use the Premises for the
22 use permitted herein.

23 **6.3.1 Notice.** County shall provide Lessor with written notification
24 of its election to terminate this Lease at least sixty (60) days prior to the date of
25 termination. County's notice shall state the reason for its termination of this Lease.
26 County's obligation to pay Rent shall continue through the termination date.

27 **7. Compliance.**
28

1 **7.1 Compliance.** Lessor warrants that the Premises and
2 improvements on the Premises shall comply with all applicable State and Federal laws,
3 covenants or restrictions of record, building codes, regulations and ordinances
4 (“Applicable Requirements”) in effect on the Commencement Date of this Lease,
5 regardless of the use to which County will put the Premises. If the Premises do not
6 comply with said warranty, Lessor shall, promptly after receipt of written notice from
7 County or any governmental agency having jurisdiction over such matters setting forth
8 the nature and extent of such non-compliance, rectify the same at Lessor’s expense. If
9 the Applicable Requirements are hereinafter changed so as to require during the term
10 of this Lease, unless same is the result of the use to which County puts the Premises,
11 the construction of an addition to or an alteration of the Premises, the remediation of
12 any Hazardous Substance as hereinafter defined, or the reinforcement or other
13 physical modification of the Premises Lessor shall, promptly after receipt of written
14 notice from County or any governmental agency having jurisdiction over such matters
15 setting forth the nature and extent of such non-compliance, rectify the same at Lessor’s
16 expense.

17 **7.2 Americans With Disabilities.** Lessor warrants and represents
18 the Premises shall be readily accessible to and usable by individuals with disabilities in
19 compliance with Title III of the Americans with Disabilities Act of 1990 and California
20 Title 24, as amended from time to time and regulations issued pursuant thereto and in
21 effect from time to time. Any cost incurred to cause the Premises to comply with said
22 Act shall be borne by Lessor.

23 **7.3 Asbestos and Lead Based Paint.** Lessor warrants and
24 represents the Premises shall be constructed, operated and maintained free of hazard
25 from asbestos and lead based paint, as more fully set forth in the attached Exhibit “C”.

26 **7.4 Hazardous Substance.** It is the intent of the Parties to construe
27 the term “Hazardous Substances” in its broadest sense. Hazardous Substance shall
28 be defined as any product, substance, or waste whose presence, use, manufacture,

1 disposal, transportation, or release, either by itself or in combination with other
2 materials, is either: (a) potentially injurious to the public health, safety or welfare, the
3 environment or the Premises; (b) regulated or monitored by any governmental
4 authority; or (c) a basis for potential liability of County to any governmental agency or
5 third party under any applicable statute or common law theory.

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

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

1 **7.5 Sick Building Syndrome.** Lessor warrants and represents the
2 Premises shall be constructed, operated and maintained free of certain hazards,
3 including, but not limited to: spores, fungus, molds, bacteria, chemicals or fumes or
4 other causes of any hazardous micro-environments, sometimes known as "Sick
5 Building Syndrome", emanating from or within the Premises that may potentially cause
6 discomfort, bodily injury, sickness or death. Should it be determined that remediation is
7 necessary based on a report by a trained investigator, Lessor will promptly contract
8 with a qualified and experienced company to safely remove the micro-environments
9 using remediation guidelines recommended or required by the appropriate
10 governmental agency. Any cost incurred to cause the Premises to be free of such
11 hazard shall be borne by Lessor.

12 **7.6 Waste Water.** Lessor shall be responsible for compliance with all
13 Federal, state or local laws, regulations or permits pertaining to storm water pollution,
14 prevention plans ("SWPP") and all National Pollution Discharge Elimination System
15 ("NPDES") laws or regulations adopted or to be adopted by the United States
16 Environmental Protection Agency. Parking lot sweeping shall be done as required by
17 NPDES rules or as needed, at least two times per year, once prior to the rainy season.

18 **8. Custodial Services.**

19 **8.1 Custodial Services.** Lessor shall provide, or cause to be
20 provided, and pay for all custodial services in connection with the Leased Premises
21 and such services shall be provided as set forth in the attached Exhibit "E". The
22 provider of such custodial services will perform background checks through Live Scan
23 or in the manner specified by County, of qualified permanent and temporary employees
24 to determine their suitability for employment. The provider will be bonded in the sum of
25 \$10,000.00, and proof of such insurance, as supplied by the Lessor, shall be furnished
26 prior to occupancy of Premises by County. In addition to bonding as required herein,
27 Lessor shall also receive proof of statutory workers' compensation insurance,
28

1 commercial general liability and vehicle liability insurance from the provider of any
2 custodial functions performed at the Premises location.

3 **8.2 County's Right to Provide Custodial Service and Deduct Cost.**

4 If County provides written notice to Lessor of an event or circumstance that requires
5 the action of Lessor with respect to the custodial services as set forth in Section 8.1
6 and Exhibit "E", and Lessor fails to provide such action as required by the terms of this
7 Lease within three (3) days of County's notice, County may take the required action to
8 provide custodial services by its staff or those of a custodial contractor if: (1) County
9 delivers to Lessor an additional written notice advising Lessor that County intends to
10 take the required action if Lessor does not begin the required action within forty-eight
11 (48) hours after the written notice; and (2) Lessor fails to begin the required work within
12 this forty-eight (48) hour period. Upon demand by County, Lessor shall promptly
13 reimburse County the actual cost and expenses thereof, provided said costs and
14 expenses are reasonable. Should Lessor fail to promptly pay the cost and expenses,
15 County may deduct and offset that amount from Rent payable under this Lease. For
16 purposes of this Section, notice given by fax or e-mail shall be deemed sufficient.

17 **9. Utilities.**

18 **9.1** Lessor warrants and represents to County that during the term of this
19 Lease and any extension thereof that sufficient utility service to provide water,
20 telecommunications, electric power, natural gas and sewers necessary to meet
21 County's requirements exists or are available for use by County within the Premises.

22 **9.2** County shall pay for all telephone, metered gas, electrical services
23 within the leased space which will be used in connection with the Leased Premises.
24 Lessor shall provide, or cause to be provided, and pay for all other utility services,
25 including, but not limited to, water, natural gas, refuse collection and sewer services, as
26 may be required in the maintenance, operation and use of the Leased Premises.

27 **10. Repairs and Maintenance.**

28

1 **10.1 Lessor's Repair and Maintenance Obligations.** Lessor shall,
2 at Lessor's sole expense and in accordance with the terms of this Lease, repair,
3 replace and maintain in attractive condition, good order and function throughout the
4 term in accordance with Exhibit "F", General Construction Specifications for Leased
5 Facilities, (a) the structural portions of the Premises (understood to include the roof,
6 foundation and load bearing walls); (b) the nonstructural portions of the Premises
7 (understood to include the roof covering and membrane) including, but not limited to,
8 all improvements, alterations, fixtures, but excluding furniture, furniture to be used on
9 an "as is" basis; (c) all systems and equipment, including, but not limited to, Base
10 Premises Systems as heretofore described that serve the Premises; and (d) the
11 exterior portions of the Premises, and real property including, but not limited to,
12 landscaping, driveways, sidewalks, exterior lighting and parking facilities servicing the
13 Premises. It is the intent of this paragraph that Lessor performs any and all building
14 repairs, replacements and maintenance. Lessor agrees to make all repairs to or
15 alterations of the Premises that may become necessary by reason of industry standard
16 for age, wear and tear, deferred maintenance or defects in any construction thereof by
17 Lessor.

18 **10.2 Lessor's Default.** Repairs shall be made promptly when
19 appropriate to keep the applicable portion of the Premises and other items in the
20 condition described in this Section. Lessor understands certain response time is
21 required to ensure County operations continue with minimal interruption to ensure the
22 safety of employees and delivery of services. The commencement of repairs within
23 eight (8) hours from written notice include electrical power, HVAC operations and
24 certain essential daily custodial services. Lessor shall not be in default of its repair and
25 maintenance obligations under this Section 10, if Lessor commences the repairs and
26 maintenance within eight (8) hours of the aforementioned areas and thirty (30) days for
27 all others after written notice by County to Lessor of the need for such repairs and
28 maintenance. If, due to the nature of the particular repair or maintenance obligation,

1 more than thirty (30) days are reasonably required to complete it, Lessor shall not be in
2 default under this Section 10 if Lessor begins work within this thirty (30) day period and
3 diligently pursues this work to completion.

4 **10.3 County's Right to Make Repairs and Deduct Cost.** If County
5 provides notice to Lessor of an event or circumstance that requires the action of Lessor
6 with respect to the replacement, repair or maintenance to the Premises or Base
7 Building Systems serving the Premises as set forth in Section 10.1 and Lessor fails to
8 provide such action as required by the terms of this Lease within the period specified in
9 Section 10.2, County may (but shall not be obligated to do so) take the required action
10 if: (1) County delivers to Lessor an additional written notice advising Lessor that County
11 intends to take the required action if Lessor does not begin the required repair or
12 maintenance within twenty four (24) hours, after the written notice; and (2) Lessor fails
13 to begin the required work within this twenty four (24) hour period.

14 **10.3.1** Lessor grants to County a license, effective during the
15 Lease Term, to enter upon those portions of the Premises access to which is
16 reasonably necessary for County to take such action.

17 **10.3.2** If such action was required under the terms of this Lease to
18 be taken by Lessor, County shall be entitled to prompt reimbursement by Lessor of
19 County's reasonable costs and expenses in taking such action, plus interest at the then
20 prevailing legal rate of interest from the date these costs are incurred until the date of
21 Lessor's repayment. Lessor's obligation to reimburse County shall survive expiration or
22 earlier termination of this Lease.

23 **10.3.3** If, within thirty (30) days after receipt of County's written
24 demand for payment of County's costs incurred in taking such action on Lessor's
25 behalf, Lessor has not paid the invoice or delivered to County a detailed written
26 objection to it, County may deduct from Rent payable by County under this Lease the
27 amount set forth in the invoice, plus interest at the interest rate described above from
28 the date these costs are incurred until the date of County's Rent set off.

1 **10.4 Emergency Repairs.**

2 **10.4.1** An "Emergency Repair Situation" is defined as the
3 existence of any condition that requires prompt repair, replacement or service to
4 minimize the impact of an event or situation which affects County's ability to conduct
5 business in a neat, clean, safe and functional environment.

6 **10.4.2** If County notifies Lessor of an Emergency Repair Situation
7 which occurs in or about the Premises which is the responsibility of the Lessor to repair
8 or maintain, then Lessor shall commence appropriate repairs or maintenance
9 immediately after notice of the condition is given by County, which notice may be via
10 telephone, facsimile, personal contact or any other means, and Lessor shall thereafter
11 diligently pursue to completion said repairs or maintenance.

12 **10.4.3** If Lessor fails to commence repairs within twenty-four (24)
13 hours of the aforementioned notice, or if the County is unable to contact Lessor
14 or any designated agent within a reasonable time based upon the seriousness of the
15 event or situation, County may, but shall not be so obligated to, cause said repairs or
16 replacements to be made or such maintenance to be performed. Upon demand by
17 County, Lessor shall promptly reimburse County the actual cost and expenses thereof,
18 provided said costs and expenses are reasonable. Should Lessor fail to promptly pay
19 the cost and expenses, County may deduct and offset that amount from Rent payable
20 under this Lease.

21 **10.5 Periodic Services.** Lessor shall provide, or cause to be provided,
22 and pay for all Periodic Services, if so requested by County; monthly pest control
23 services; quarterly HVAC standard preventative maintenance and changing of air
24 filters; annual fire extinguisher inspections; annual roof inspections and maintenance to
25 include roof repairs/replacement; cleaning of roof gutters, drains, and down spouts
26 prior to rainy season.

27 **11. Alterations and Additions.**

28 **11.1 Improvements by Lessor.**

1 **11.1.1** Lessor recognizes and understands that any County
2 improvements requested by the County to be completed by Lessor during the term of
3 this Lease shall be undertaken according to Exhibit "B", Leasehold Improvement
4 Agreement, and Exhibit "F", General Construction Specifications for Leased Facilities.

5 **11.1.2** Prevailing wages are required for work done that falls within
6 the definition of "public works" under California Labor Code §1720. "Public works" are
7 defined as "construction, alteration, demolition, installation, or repair work done under
8 contract and paid for in whole or in part out of public funds..." For those projects
9 which are "public works" pursuant to Labor Code §1720.2, the following applies:

10 **11.1.2.1** Lessor shall require that Contractor shall comply with
11 prevailing wage requirements and be subject to restrictions and penalties in
12 accordance with §1770 et seq. of the Labor Code which requires prevailing wages be
13 paid to appropriate work classifications in all bid specifications and subcontracts.

14 **11.1.2.2** The Lessor shall require that Contractor shall furnish all
15 subcontractors/employees a copy of the Department of Industrial Relations prevailing
16 wage rates at which Lessor will post at the job site. All prevailing wages shall be
17 obtained by the Lessor/Contractor from:

18 Department of Industrial Relations
19 Division of Labor Statistics and Research
20 455 Golden Gate Avenue, 8th Floor
21 San Francisco, CA 94102

22 **11.1.2.3** Lessor shall require that Contractor shall comply with the
23 payroll record keeping and availability requirement of §1776 of the Labor Code.

24 **11.1.2.4** Lessor shall require that Contractor shall make travel and
25 subsistence payments to workers needed for performance of work in accordance with
26 §1773.8 of the Labor Code.

27 **11.1.2.5** Prior to commencement of work, Lessor shall require that
28 Contractor shall contact the Division of Apprenticeship Standards and comply with
§1777.5, §1777.6 and §1777.7 of the Labor Code and applicable regulations.

1 **11.1.3** Lessor shall comply and stay current with all applicable
2 local, state and federal building codes and laws as from time to time amended,
3 including, but not limited to, the Americans with Disabilities Act requirements in
4 providing the County with any requested County improvements.

5 **11.1.4** If any agency, division or department of any governmental
6 entity with appropriate jurisdiction condemns the Premises or any part of the Premises
7 as unsafe or not in conformity with any of the laws or regulations controlling their
8 construction, occupation or use, or orders or requires any alteration, repair or
9 reconstruction of the Premises the responsible party shall be the Lessor who at its sole
10 cost and expense (and without any right of reimbursement from County) immediately
11 effect all necessary alterations and repairs required for the Premises full and exact
12 compliance.

13 **11.1.5** Lessor shall cause all County improvements to be lien free,
14 completed at Lessor's cost in a workmanlike manner and in compliance with all
15 applicable law.

16 **11.1.6** County agrees when requested by Lessor to execute and
17 deliver any applications, consents or other instruments required to permit Lessor to
18 complete such County improvements or to obtain permits for the work.

19 **11.1.7** Post occupancy tenant improvements requested by County
20 and completed by Lessor shall be reimbursed by County at Lessor's cost plus 10%.
21 Lessor's invoices for such improvements shall be itemized according to material, sales
22 tax, labor, and Lessor's 10% overhead handling charge.

23 **11.1.8** Due to County fiscal year funding and accounting practices,
24 any costs due to Lessor for reimbursement of tenant improvements during the term
25 must be invoiced and received by the County prior to May 1st of each fiscal year in
26 which services to County were provided to ensure payment.

27 **11.2 Improvements by County.**
28

1 **11.2.1** Any alterations, improvements or installation of fixtures to
2 be undertaken by County shall have the prior written consent of Lessor. Such consent
3 shall not be unreasonably withheld, conditioned or delayed by Lessor.

4 **11.2.2** All alterations and improvements made, and fixtures
5 installed, by County shall remain County property and may be removed by County at or
6 prior to the expiration of this Lease; provided, however, that such removal does not
7 cause injury or damage to the Leased Premises beyond normal wear and tear.

8 **11.3 Communications Equipment.** County may, from time to time,
9 install maintain, replace and/or remove any satellite dishes, links, duct bank or
10 antennas on the grounds, roof and/or exterior walls or parapet of the Premises as
11 County deems reasonably necessary or desirable, provided County shall first obtain
12 Lessor's written approval, which approval shall not be unreasonably withheld,
13 conditioned, or delayed. Upon the removal by County of any such satellite dishes, links
14 or antennas, County shall repair any damage incurred in connection with such removal.

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

16 **12.1 Exculpation.** To the fullest extent permitted by law, Lessor, on its
17 behalf and on behalf of all Lessor Parties, as hereinafter defined, waives all claims (in
18 law, equity, or otherwise) against County Parties, as hereinafter defined, arising out of,
19 knowingly and voluntarily assumes the risk of, and agrees that County Parties shall not
20 be liable to Lessor Parties for any of the following: (1) injury to or death of any person;
21 or (2) loss of, injury or damage to, or destruction of any tangible or intangible property,
22 including the resulting loss of use, economic losses, and consequential or resulting
23 damage of any kind from any cause. County Parties shall not be liable under this
24 Section regardless of whether the liability results from any active or passive act, error,
25 omission, or negligence of any of County Parties; or is based on claims in which liability
26 without fault or strict liability is imposed or sought to be imposed on any of County
27 Parties. This exculpation Section shall not apply to claims against County Parties to the
28 extent that a final judgment of a court of competent jurisdiction establishes that the

1 injury, loss, damage, or destruction was proximately caused by County Parties' fraud,
2 willful injury to person or property, or violation of law.

3 **12.1.1 Definition of "County Parties" and "Lessor Parties".**

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

13 **12.1.2 Survival of Exculpation.** The paragraphs of this Section
14 12 shall survive the expiration or earlier termination of this Lease until all claims within
15 the scope of this Section 12 are fully, finally, and absolutely barred by the applicable
16 statutes of limitations.

17 **12.1.3 Lessor's Acknowledgment of Fairness.** Lessor
18 acknowledges that this Section 12 was negotiated with County, that the consideration
19 for it is fair and adequate, and that Lessor had a fair opportunity to negotiate, accept,
20 reject, modify, or alter it.

21 **12.1.4 Waiver of Civil Code Section 1542.** With respect to the
22 exculpation provided in this Section 12, Lessor waives the benefits of Civil Code
23 Section 1542, which provides:

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

27 **12.2 Indemnification and Hold Harmless.**

28

1 **12.2.1** Lessor shall indemnify and hold harmless the County
2 Parties from any liability, including but not limited to, property damage, bodily damage,
3 bodily injury, or death, or from any services provided by Lessor Parties or any act,
4 error, omission, of Lessor Parties or of any invitee, guest, or licensee of Lessor in, on,
5 or about the Project arising out of, from or in any way relating to this Lease. When
6 indemnifying County Parties, Lessor shall defend at its sole cost and expense,
7 including but not limited to, attorney fees, cost of investigation, defense and
8 settlements or awards, on behalf of the County parties in any claim or action based
9 upon such liability.

10 **12.2.2** County shall indemnify and hold harmless the Lessor
11 Parties from any liability whatsoever, including but not limited to, property damage,
12 bodily injury, or death, based or asserted on events which may occur within the County
13 leased premises and is under the control of the County arising out of or from its use
14 and occupancy relating to this Lease. County Parties shall not indemnify Lessor
15 Parties for liability arising within the County leased Premises when such liability arose
16 out of or from Lessor's responsibilities under the terms of this Lease. County shall
17 defend at its sole cost and expense, including but not limited to, attorney fees, cost of
18 investigation, defense and settlements or awards, on behalf of the Lessor Parties in
19 any claim or action based upon such liability.

20 **12.2.3** With respect to any action or claim subject to
21 indemnification herein, the indemnifying party shall, at their sole cost, have the right to
22 use counsel of their choice and shall have the right to adjust, settle, or compromise any
23 such action or claim without the prior consent of the indemnified party; provided,
24 however, that any such adjustment, settlement or compromise in no manner
25 whatsoever limits or circumscribes the indemnifying party's obligation to indemnify as
26 set forth herein.

27 **12.2.4** The indemnifying party's obligation hereunder shall be
28 satisfied when they have provided the indemnified party the appropriate form of

1 dismissal relieving the indemnified party from any liability for the action or claim
2 involved.

3 **12.2.5** The specified insurance limits required in this Lease shall in
4 no way limit or circumscribe the indemnifying party's obligation to indemnify as set forth
5 herein.

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

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

14 **12.3 Insurance.**

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

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

25 **12.3.1.2 Commercial General Liability.** Commercial
26 General Liability Insurance coverage, including but not limited to, premises liability,
27 contractual liability, products/completed operations, personal and advertising injury,
28 cross liability coverage and employment practices liability covering bodily injury,

1 property damage, and personal injury arising out of or relating, directly or indirectly, to
2 the design, construction, maintenance, repair, alteration and ownership of the
3 Premises and all areas appurtenant thereto including claims which may arise from or
4 out of Lessor's operations, use, and management of the Premises, or the performance
5 of its obligations hereunder. Policy shall name the County of Riverside, its Special
6 Districts, Agencies, Districts and Departments, their respective Directors, Officers,
7 Board of Supervisors, elected and appointed officials, employees, agents, independent
8 contractors or representatives as an Additional Insured. Policy limits shall not be less
9 than \$1,000,000 per occurrence. If such insurance contains a general aggregate limit,
10 it shall apply separately to this Lease or be no less than two (2) times the occurrence
11 limit.

12 **12.3.1.3 Vehicle Liability.** If vehicles or licensed
13 mobile equipment are used on the Project, Lessor shall maintain auto liability insurance
14 for all owned, non-owned or hired automobiles in an amount not less than \$1,000,000
15 per occurrence combined single limit. Policy shall name the County of Riverside, its
16 Special Districts, Agencies, Districts, and Departments, their respective Directors,
17 Officers, Board of Supervisors, elected and appointed officials, employees, agents,
18 independent contractors or representatives as Additional Insured.

19 **12.3.1.4 Property (Physical Damage).**

20 (a) All-Risk real property insurance coverage,
21 including earthquake and flood, if applicable, for the full replacement cost value of
22 buildings, structures, fixtures, all improvements therein, and building systems on the
23 Project as the same exists at each early anniversary of the term. Policy shall include
24 Business Interruption, Extra Expense, and Expediting Expense coverage as well as
25 coverage for off-premises power failure. Policy shall name the County as a Loss
26 Payee as their interests may appear.

27 (b) Boiler and Machinery insurance providing
28 coverage for at least, but not limited to, all high voltage electrical and rotating

1 mechanical equipment on a full replacement cost value basis. Policy shall provide
2 Business Interruption, Extra Expense, and Expediting Expense coverage as well as
3 coverage for off-premises power failure. Policy shall name the County as a Loss
4 Payee as their interests may appear.

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

16 **12.3.1.5 General Insurance Provisions – All Lines.**

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

23 (b) The Lessor or Lessor's insurance carrier(s)
24 must declare its insurance deductibles or self-insured retentions. If such deductibles or
25 self-insured retentions exceed \$500,000.00 per occurrence such deductibles and/or
26 retentions shall have the prior written consent of the County Risk Manager before the
27 commencement of the Lease term. Upon notification of deductibles or self insured
28 retentions which are deemed unacceptable to the County, at the election of the

1 County's Risk Manager, Lessor's carriers shall either: 1) reduce or eliminate such
2 deductibles or self-insured retentions as respects this Agreement with the County, or 2)
3 procure a bond which guarantees payment of losses and related investigations, claims
4 administration, defense costs and expenses.

5 (c) At the inception of this Lease and annually at
6 the Lessor's insurance policy renewal date(s), the Lessor shall cause their insurance
7 carrier(s) to furnish the County of Riverside with 1) a properly executed original
8 Certificate(s) of Insurance and certified original copies of Endorsements effecting
9 coverage as required herein; or, 2) if requested to do so orally or in writing by the
10 County Risk Manager, provide original Certified copies of policies including all
11 Endorsements and all attachments thereto, showing such insurance is in full force and
12 effect. Further, said Certificate(s) and policies of insurance shall contain the covenant
13 of the insurance carrier(s) shall provide no less than thirty (30) days written notice be
14 given to the County of Riverside prior to any material modification or cancellation of
15 such insurance. In the event of a material modification or cancellation of coverage, this
16 Lease shall terminate forthwith, unless the County of Riverside receives, prior to such
17 effective date, another properly executed original Certificate of Insurance and original
18 copies of endorsements or certified original policies, including all endorsements and
19 attachments thereto evidencing coverage and the insurance required herein is in full
20 force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf
21 shall sign the original endorsements for each policy and the Certificate of Insurance.
22 The Lease term shall not commence until the County of Riverside has been furnished
23 original Certificates(s) of Insurance and certified original copies of endorsements or
24 policies of insurance including all endorsements and any and all other attachments as
25 required in this Section.

26 (d) It is understood and agreed by the parties
27 hereto and the Lessor's insurance company(s) that the Certificate(s) of Insurance and
28 policies shall so covenant and shall be construed as primary insurance, and the

1 County's insurance and/or deductibles and/or self-insured retentions or self-insured
2 programs shall not be construed as contributory.

3 **12.3.2 County's Insurance:** County maintains funded programs
4 of Self-Insurance. County shall provide to Lessor a Certificate of Self-Insurance
5 evidencing the County's Self-Insurance for the following coverage, if so requested by
6 Lessor:

7 12.3.2.1 Workers' Compensation \$1,000,000 per occurrence

8 12.3.2.2 Commercial General Liability \$1,000,000 per occurrence

9 12.3.2.3 Automobile Liability \$1,000,000 per occurrence

10
11 **13. Damage and Destruction.**

12 **13.1 Repair of Damage.** County agrees to notify Lessor in writing
13 promptly of any damage to the Premises resulting from fire, earthquake, or any other
14 identifiable event of a sudden, unexpected, or unusual nature ("Casualty"). If the
15 Premises, whether covered by insurance or not, are damaged by a Casualty, or the
16 Casualty results in the Premises not being provided with Base Building Systems or
17 parking facilities, and if neither Lessor nor County has elected to terminate this Lease
18 under this Section 13, Lessor shall promptly and diligently restore Premises, the
19 County Improvements originally constructed by Lessor, Base Building Systems, and
20 County's parking facilities to substantially the same condition as existed before the
21 Casualty, subject to modifications required by building codes and other laws. If County
22 requests that Lessor make any modifications to the County Improvements in
23 connection with the rebuilding, Lessor may condition its consent to those modifications
24 on: (a) confirmation by Lessor's contractor that the modifications shall not increase the
25 time needed to complete the County Improvements; or (b) an agreement by County
26 that the additional construction period shall not extend the rent abatement period.

27 **13.2 Repair Period Notice.** Lessor shall, within thirty (30) days after
28 the date of the Casualty, provide written notice to County indicating the anticipated

1 period for repairing the Casualty ("Repair Period Notice"). The Repair Period Notice
2 shall be accompanied by a certified statement executed by the Contractor retained by
3 Lessor to complete the repairs or, if Lessor has not retained a Contractor, a licensed
4 Contractor not affiliated with Lessor, certifying the Contractor's opinion about the
5 anticipated period for repairing the Casualty. The Repair Period Notice shall also state,
6 if applicable, Lessor's election either to repair or to terminate the Lease under Section
7 13.3.

8 **13.3 Lessor's Option to Terminate or Repair.** Lessor may elect
9 either to terminate this Lease or to effectuate repairs if: (a) the Repair Period Notice
10 estimates that the period for repairing the Casualty exceeds ninety (90) days from the
11 date of the Casualty; or (b) the estimated repair cost of the Premises, even though
12 covered by insurance, exceeds fifty percent (50%) of the full replacement cost.

13 **13.4 County's Option to Terminate.** If (a) the Repair Period Notice
14 provided by Lessor indicates that the anticipated period for repairing the Casualty
15 exceeds ninety (90) days, or (b) notwithstanding the above, in the event of a
16 substantial or total casualty to the Premises or improvements, County may by written
17 notice to Lessor within thirty (30) days after such damage or destruction of its intention
18 to terminate this Lease, elect to terminate this Lease by providing written notice
19 (County's Termination Notice) to Lessor within thirty (30) days after receiving the
20 Repair Period Notice. If County does not elect to terminate within said thirty (30) day
21 period, County shall be considered to have waived its' option to terminate.

22 **13.5 Rent Abatement Due to Casualty.** Lessor and County agree that
23 County's Rent shall be fully abated during the period beginning on the later of: (a) the
24 date of the Casualty; or (b) the date on which County ceases to occupy the Premises
25 and ending on the date of Substantial Completion of Lessor's restoration obligations as
26 provided in this Section 13 ("Abatement Period"). If, however, County is able to occupy
27 and does occupy a portion of the Premises, Rent shall be abated during the Abatement
28 Period only for the portion of the Premises not occupied by County.

1 **13.6 Damage Near End of Term.** Despite any other provision of this
2 Section 13, if the Premises are destroyed or damaged by a Casualty during the last
3 eighteen (18) months of the original Lease Term, Lessor and County shall each have
4 the option to terminate this Lease by giving written notice to the other of the exercise of
5 that option within thirty (30) days after that damage or destruction, provided, however,
6 County may negate Lessor's election to terminate under this Section 13.6 by electing,
7 within ten (10) days after receipt of Lessor's termination notice, to exercise any
8 unexercised option to extend this Lease. If County negates Lessor's election, this
9 Lease shall continue in effect unless Lessor has the right to, and elects to, terminate
10 this Lease under Section 13.3.

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

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

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

28 **14. Eminent Domain.**

1 **14.1 Total Condemnation.** If all of the Premises are condemned by
2 eminent domain, inversely condemned, or sold in lieu of condemnation for any public or
3 quasi-public use or purpose, this Lease will terminate as of the date of title vesting in
4 that proceeding and the Rent will be abated from the date of termination.

5 **14.2 Partial Condemnation.** If any portion of the Premises is
6 condemned by eminent domain, inversely condemned, or sold in lieu of condemnation
7 for any public or quasi-public use or purpose and the partial condemnation renders the
8 Premises unusable for County's business, this Lease will terminate as of the date of
9 title vesting or order of immediate possession in that proceeding and the Rent will be
10 abated to the date of termination. If the partial condemnation does not render the
11 Premises unusable for the business of County and less than a substantial portion of the
12 Premises is condemned, Lessor must promptly restore the Premises to the extent of
13 any condemnation proceeds recovered by Lessor, excluding the portion lost in the
14 condemnation, and this Lease will continue in full force, except that after the date of the
15 title vesting, the Rent will be adjusted, as reasonably determined by Lessor and
16 County.

17 **14.3 Award.** If the Premises are wholly or partially condemned, Lessor
18 will be entitled to the entire award paid for the condemnation, and County waives any
19 claim to any part of the award from Lessor or the condemning authority. County,
20 however, will have the right to recover from the condemning authority any
21 compensation that may be separately awarded to County in connection with costs in
22 removing County's merchandise, furniture, fixtures, leasehold improvements, and
23 equipment to a new location.

24 **14.4 Temporary Condemnation.** In the event of a temporary
25 condemnation, this Lease will remain in effect, County will continue to pay Rent, and
26 County will receive any award made for the condemnation. If a temporary
27 condemnation remains in effect at the expiration or earlier termination of this Lease,
28 County will pay Lessor the reasonable cost of performing any obligations required of

1 County with respect to the surrender of the Premises. If a temporary condemnation is
2 for a period that extends beyond the Term, this Lease will terminate as of the date of
3 occupancy by the condemning authority and any award will be distributed in
4 accordance with Section 14.3.

5 **15. Estoppel Certificates.**

6 **15.1** Within twenty (20) business days after receipt of a written request
7 by either party, the other party shall execute and deliver to the requesting party an
8 Estoppel Certificate, in the form of the attached Exhibit "G", indicating in the certificate
9 any exceptions to the statements in the certificate that may exist at that time.

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

11 **16.1 Subordination, Non-Disturbance, and Attornment Agreement.**

12 To carry out the purposes of Section 16.2 and Section 16.3, the Parties agree to
13 execute a Subordination, Non-Disturbance and Attornment Agreement in the form set
14 forth in the attached Exhibit "H".

15 **16.2 Subordination.** County agrees that within forty-five (45) business

16 days after Lessor's written request, it shall execute the agreement referred to in
17 Section 16.1 that Lessor reasonably considers necessary to evidence or confirm the
18 subordination or inferiority of this Lease to the lien of any mortgage, deed of trust or
19 other encumbrance of the Premises or any renewal, extension, modification,
20 replacement thereof, provided however, that such Subordination Agreement shall be
21 strictly limited to matters contained in the Agreement referred to in Section 16.1 and no
22 such Subordination Agreement shall materially increase any of County's obligations or
23 materially decrease any of County's rights under this Lease, nor shall the possession of
24 County be disturbed, by reason of any foreclosure, sale or other action under any such
25 trust deed, mortgage or other encumbrance.

26 **16.3 Attornment.** If Lessor's interest in the Premises passes to a

27 successor, and provided County has received the Non-Disturbance agreement referred
28 to in Section 16.1, County shall, within forty-five (45) business days after Lessor's

1 transferee's request, execute the agreement referred to in Section 16.1, thereby
2 agreeing to attorn and to recognize the transferee as the Lessor under this Lease;
3 provided the transfer of Lessor's interest in the Premises was by sale, lease,
4 foreclosure, deed in lieu of foreclosure, exercise of any remedy provided in any
5 encumbrance or operation of law.

6 **17. Breach by Lessor.**

7 **17.1 Lessor's Default.** Except as provided to the contrary in this
8 Lease, Lessor's failure to perform any of its obligations under this Lease shall
9 constitute a default by Lessor under the Lease if the failure continues for thirty (30)
10 days after written notice of the failure from County to Lessor. If the required
11 performance cannot be completed within thirty (30) days, Lessor's failure to perform
12 shall constitute a default under the Lease unless Lessor undertakes to cure the failure
13 within thirty (30) days and diligently and continuously attempts to complete this cure as
14 soon as reasonably possible.

15 **17.2 County's Right to Cure Lessor's Default and Deduct Cost.**

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

23 **17.3 Rent Setoff.** If, within thirty (30) days after receipt of County's
24 written demand for payment of County's costs incurred in taking such action on
25 Lessor's behalf, Lessor has not paid the invoice or delivered to County a detailed
26 written objection to it, County may deduct from Rent payable by County under this
27 Lease the amount set forth in the invoice, including transaction costs and attorneys'
28

1 fees, plus interest at the then legal rate of interest from the date these costs are
2 incurred until the date of County's Rent setoff.

3 **18. Lessor's Representations and Warranties.** Lessor represents and
4 warrants to County that:

5 **18.1 Title.** County's Leasehold interest in the Premises is free and
6 clear of restrictions which would restrict County's rights under this Lease.

7 **18.2 Certificate of Authority.** Lessor covenants that it is a duly
8 constituted under the laws of the state of its organization, and that the person(s) who is
9 acting as its signatory in this Lease is duly authorized and empowered to act for and on
10 behalf of the Lessor. Lessor shall furnish County prior to the execution hereof with
11 evidence of the authority of the signatory to bind the entity or trust as contemplated
12 herein.

13 **18.3 No Litigation.** There are no judicial, quasi-judicial, administrative
14 or other orders, injunctions, moratoria or pending proceedings against Lessor or the
15 Premises which preclude or interfere with, or would preclude or interfere with, the
16 construction contemplated herein or the occupancy and use of the Premises by County
17 for the purposes herein contemplated.

18 **18.4 Easements.** Lessor shall not (a) subdivide, parcel or otherwise
19 divide the Premises, (b) create, modify or terminate any ingress or egress to or from
20 the premises, or (c) create any easements in the Premises, without County's prior
21 written approval.

22 **19. Miscellaneous.**

23 **19.1 Quiet Enjoyment.** Lessor covenants that County shall at all times
24 during the term of this Lease peaceably and quietly have, hold and enjoy the use of the
25 Premises so long as County shall fully and faithfully perform the terms and conditions
26 that it is required to do under this Lease. If the Premises are part of a building shared
27 with other tenants of Lessor, during County's tenancy, Lessor may make or permit
28 other tenants to make alterations, renovations and improvements to those portions of

1 the building not occupied by County. Lessor covenants for itself and anyone deriving
2 title from or holding title under Lessor that County's access, ingress, loading and
3 unloading and sufficient parking for County's business shall not unreasonably be
4 obstructed nor shall the daily business of County be disrupted as a result of such
5 alterations, renovations and improvements.

6 **19.2 Non-Waiver.** No waiver of any provision of this Lease shall be
7 implied by any failure of either party to enforce any remedy for the violation of that
8 provision, even if that violation continues or is repeated. Any waiver by a party of any
9 provision of this Lease must be in writing. Such written waiver shall affect only the
10 provision specified and only for the time and in the manner stated in the writing.

11 **19.3 Binding on Successors.** The terms and conditions herein
12 contained shall apply to and bind the heirs, successors in interest, executors,
13 administrators, representatives and assigns of all the Parties hereto.

14 **19.4 Severability.** The invalidity of any provision in this Lease as
15 determined by a court of competent jurisdiction shall in no way affect the validity of any
16 other provision hereof.

17 **19.5 Venue.** Any action at law or in equity brought by either of the
18 Parties hereto for the purpose of enforcing a right or rights provided for by this Lease
19 shall be tried in a court of competent jurisdiction in the County of Riverside, State of
20 California, and the Parties hereto waive all provisions of law providing for a change of
21 venue in such proceedings to any other county.

22 **19.6 Attorneys' Fees.** In the event of any litigation or arbitration
23 between Lessor and County to enforce any of the provisions of this Lease or any right
24 of either party hereto, the unsuccessful party to such litigation or arbitration agrees to
25 pay to the successful party all costs and expenses, including reasonable attorneys'
26 fees, incurred therein by the successful party, all of which shall be included in and as a
27 part of the judgment rendered in such litigation or arbitration.

28 **19.7 County's Representative.** County hereby appoints the

1 Assistant County Executive Officer/EDA as its authorized representative to administer
2 this Lease.

3 **19.8 Agent for Service of Process.** It is expressly understood and
4 agreed that in the event Lessor is not a resident of the State of California or it is an
5 association or partnership without a member or partner resident of the State of
6 California, or it is a foreign corporation, then in any such event, Lessor shall file with
7 County's Assistant County Executive Officer/EDA, upon its execution hereof, a
8 designation of a natural person residing in the State of California, giving his or her
9 name, residence and business addresses, as its agent for the purpose of service of
10 process in any court action arising out of or based upon this Lease, and the delivery to
11 such agent of a copy of any process in any such action shall constitute valid service
12 upon Lessor. It is further expressly understood and agreed that if for any reason
13 service of such process upon such agent is not feasible, then in such event, Lessor
14 may be personally served with such process out of this county and that such service
15 shall constitute valid service upon Lessor. It is further expressly understood and
16 agreed that Lessor is amenable to the process so served, submits to the jurisdiction of
17 the court so obtained and waives any and all objections and protests thereto.

18 **19.9 Entire Lease.** This Lease is intended by the Parties hereto as a
19 final expression of their understanding with respect to the subject matter hereof and as
20 a complete and exclusive statement of the terms and conditions thereof and
21 supersedes any and all prior and contemporaneous leases, agreements and
22 understandings, oral or written, in connection therewith. This Lease may be changed
23 or modified only upon the written consent of the Parties hereto.

24 **19.10 Interpretation.** The Parties hereto have negotiated this Lease at
25 arms length and have been advised by their respective attorneys, or if not represented
26 by an attorney, represent that they had an opportunity to be so represented and no
27 provision contained herein shall be construed against County solely because it
28 prepared this Lease in its executed form.

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

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

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

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

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

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

1 **19.17 Surrender.** County shall, after the last day of the term or any
2 extension thereof or upon any earlier termination of such term, surrender and yield up
3 to Lessor the Premises in good order, condition and state of repair, reasonable wear
4 and tear and damage by fire or other casualty excepted. County may, but shall not be
5 required to: (a) patch or paint any walls/surfaces; (b) remove any leasehold
6 improvements constructed or installed prior to or during the term of this Lease or any
7 extension thereof; or (c) remove any fixtures or equipment installed prior to or during
8 the term of this Lease or any extension thereof.

9 **19.18 Notice.** Except as expressly provided elsewhere in this Lease, all
10 notices and other communication required under this Lease shall be in writing and
11 delivered by: (a) Certified Mail, postage prepaid, return receipt requested, in the United
12 States mail; or (b) via an overnight courier that provides written evidence of delivery
13 and addressed to the Party hereto to whom the same is directed at the addresses set
14 forth in Section 19.18 herein. Either Party hereto may from time to time change its
15 mailing address by written notice to the other Party.

16 **County's Notification Address:**

17 County of Riverside
18 Economic Development Agency – Real Estate Division
19 3403 Tenth St., Suite 500
20 Riverside, California 92501
21 Attention: Deputy Director of Real Estate

22 **Lessor's Notification Address:**

23 J.D. Guthrie, LLC
24 1401 Research Park Drive
25 Suite 400
26 Riverside, CA 92507-2145

1 **19.19 Authority.** If Lessor is a corporation, general or limited partnership
2 or individual owner, each individual executing this Lease on behalf of said corporation,
3 partnership, or individual represents and warrants that he or she is duly authorized to
4 execute and deliver this Lease on behalf of said corporation, in accordance with bylaws
5 of said corporation, or as a partner or individual is authorized to execute this Lease and
6 that this Lease is binding upon said corporation and/or partnership or individual.

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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: April 3, 2012

5 **LESSOR**

6 By: 

J.D. Guthrie, Partner

8 By: _____

9 Dated: 5-1-12

10 **COUNTY OF RIVERSIDE**

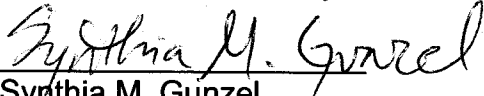
11 By: 

John Tavaglione, Chairperson
Board of Supervisors

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

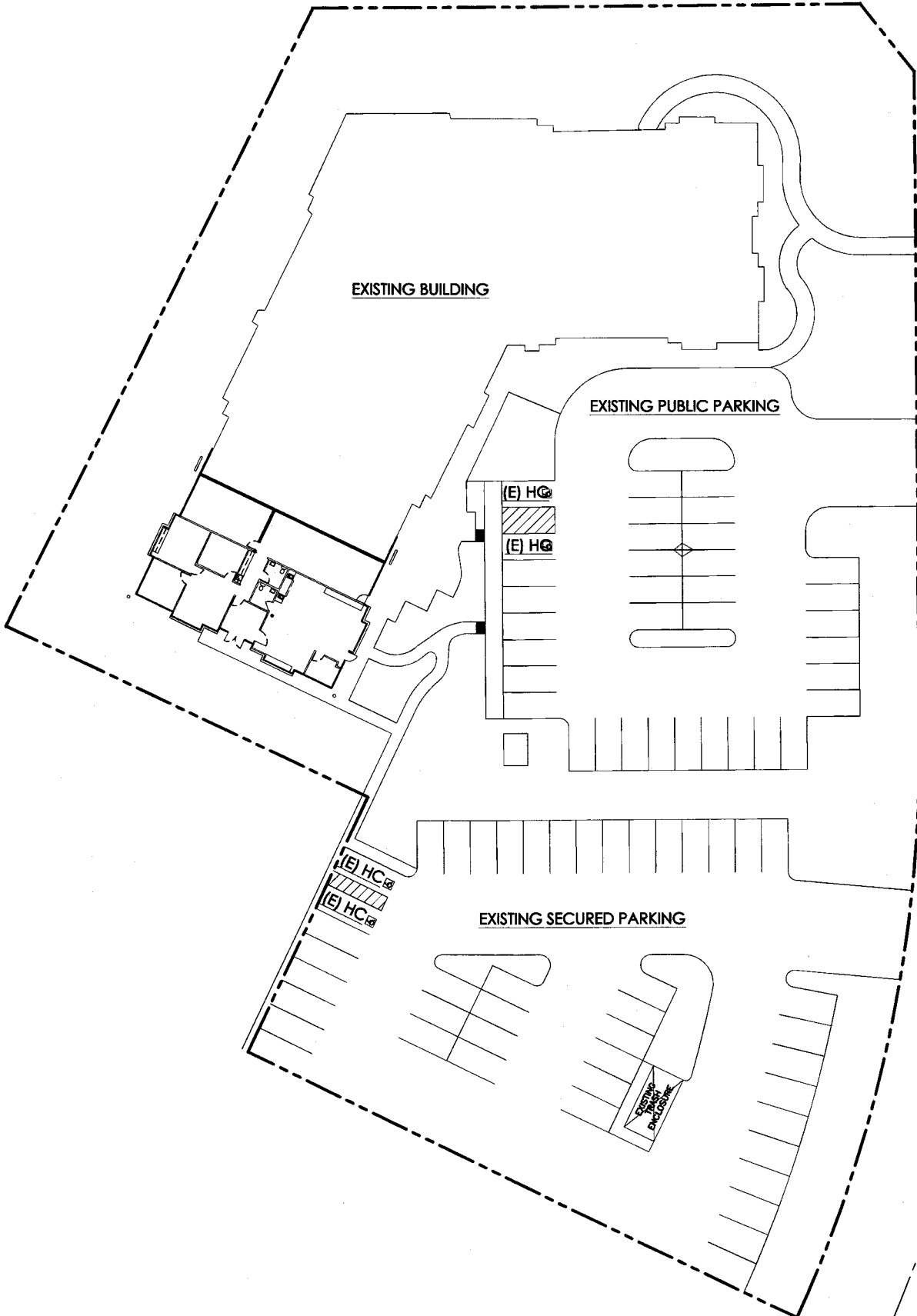
16 By: 
17 Deputy

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

20 By: 
21 Synthia M. Gunzel
22 Deputy County Counsel

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27 CC:ra/031912/RV504/14.705 S:\Real Property\TYPING\Docs-14.500 to 14.999\14.705.doc

EXHIBIT "A"



RESEARCH PARK DRIVE

EXHIBIT "B"

Tenant Improvements Telecom Room

Electrical Requirements:

- 2 – 208V 20A outlets mounted to the top of equipment rack. County RCIT to provide and install rack.
- 2-120V 20A quad outlets mounted to the top of equipment rack. County RCIT to provide and install rack.
- 1-120V 20A duplex outlet mounted on new telephone backboard. County RCIT to provide and install telephone backboard.

Air Conditioning Unit Requirement:

- Provide and install 1- Two Ton Mitsubishi model #PK12FK (or equivalent) split system air conditioner. Unit to be mounted where the top of the unit is at least 8 ft. from the finished floor with sufficient clearance available to access the top of the unit to support a/c maintenance.
 - Power for the a/c must be supplied by a dedicated circuit separate from the communications room.
 - Refrigerant and condensation lines must not be placed above any portion of the computer racks and be run above the t-grid.
 - The hard wired thermostat shall be located in the room and located in a location that is not in the part of the supply air.
 - The HVAC compressor unit will be mounted on the roof of the building.
 - Room temperature will be maintained between 64F and 75F at all times (24 hours per day, 365 days per year).

EXHIBIT "B"

Tenant Improvements
Office Space

- Touch up paint as needed
- Shampoo, and or spot clean carpet as needed
- Deep clean entire suite, including special detail to restrooms and employee break room and lounge area
- Wash and wax all tile floors
- Clean and polish all windows interior and exterior
- Confirm that all electrical components including, HVAC, plumbing, and parking lot lights are in good working order and condition
- It is agreed that the Furniture is "as is" basis. Landlord shall not be responsible for the maintenance or upkeep of the furniture

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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 _____, f 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: _____

**COUNTY OF RIVERSIDE
Department of Facilities Management
Real Estate Division**

**CUSTODIAL SERVICES REQUIREMENTS
FOR LEASED FACILITIES**

1. Background checks shall be performed, in a manner specified by County, of all qualified permanent and temporary employees.
2. Provide all required services and supplies.
3. Perform services five days a week during the hours of 5:00 pm to 1:00 am only.
4. Provide and replace all fluorescent light tubes and incandescent light bulbs using only those types of tubes and bulbs that are energy efficient as indicated by manufacturer. Fixture reflectors shall be wiped clean with each relamping.
5. Lessor and custodial staff shall be responsible for key control. Issuing keys to workers, collecting said keys at shift end and retrieving keys at the end of custodian's employment. If keys are lost, stolen or misplaced, rekeying costs are landlord's responsibility.
6. **SPECIFIC SERVICES** – Frequency and coverage:
 - A. **Daily:**
 1. Rest Rooms:

Empty all trash containers, refill dispensers, damp mop floors, clean, sanitize and polish all plumbing fixtures, chrome fittings, flush rings, drain and overflow outlets, clean and polish mirrors, clean wall adjacent to hand basins/urinals, dust metal partitions, remove finger prints from walls, switches, etc.
 2. Lobby Area – Main Corridors – Stairways:

Remove trash, vacuum, vacuum/damp mop tile, clean lobby and entrance doors, clean and sanitize drinking fountains.
 3. Employee Break Rooms/Kitchen:

Remove trash from building and deposit in dumpster, vacuum rugs and carpet, wipe spills, mop tile floor, remove fingerprints from doors, light switches, etc., and refill dispensers.
 4. General and Private Areas:

Remove trash, vacuum carpets, mop tile floors, spot clean interior partition glass, clean counter tops and blackboards, dust desks,

conference tables, credenza/file cabinets and bookcases.

5. Building Security:

- a. Turn off all lights (except security and night lights).
- b. Close windows.
- c. Reset alarms and lock all doors.

B. Weekly – All Areas:

Polish buff hard resilient floors in traffic areas, spot clean carpeted areas.

Dust all high and low horizontal surfaces, including sills, ledges, moldings, shelves, locker tops, frames and file cabinets, damp wipe plastic and leather furniture.

Remove fingerprints from doors, elevator walls and controls, frames and light switches in office areas, clean and polish bright metal to 70" height, clean and sanitize waste containers in rest rooms and break rooms.

C. Monthly – All Areas:

Clean interior glass partitions/doors, dry dust wood paneling, remove dust/cobwebs from ceiling areas.

Spray buff resilient/hard floor areas, detail vacuum carpet edges, under desk/office furniture.

D. Quarterly – All Areas:

Spray buff resilient and hard surface floors and apply floor finish.

Clean interior/exterior windows, clean/polish office furniture, damp clean diffuser outlets in ceiling/wall, wash waste containers, clean/dust blinds, wash sanitize.

E. Semi-Annually – All Areas:

1. All Areas:

- a. Clean and polish all baseboards.
- b. Damp clean lobby and reception chairs.
- c. Clean carpeted surfaces-use a water extraction method.

F. Annually – All Areas:

1. All resilient and hard surface floors:

- a. Move furniture, strip, seal and apply floor finish to all resilient and hard surface floors. }

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]