

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



ITEM  
3.16  
(ID # 7244)

MEETING DATE:

Tuesday, September 11, 2018

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA) AND RIVERSIDE UNIVERSITY  
HEALTH SYSTEM :

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA) AND RIVERSIDE UNIVERSITY  
HEALTH SYSTEM: Riverside University Health System Emergency Department  
Modular Swing Space Office – Approval of Renewal Option to the Lease Service  
Agreement with Design Space Modular Buildings, Inc., District 5. [\$62,438 -  
RUHS Enterprise Fund 40050 - 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and Approve the Renewal Option to the Lease Service Agreement with Design Space Modular Buildings, Inc. (Design Space) of Pasadena, California, for the Riverside University Health System Emergency Department Modular Swing Space Office (RUHS ED Modular Space) Project for the lease of a modular for office space in the amount of \$23,822 for FY 17/18 and \$38,616 for FY 18/19, and option to renew for one more year; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved by County Counsel to: execute the renewal of the lease service agreement and amendments with Design Space that do not change the substantive terms of the agreement.

ACTION: Policy

Robert Field, Assistant County Executive Officer/ECD

7/30/2018

Jennifer Cruikshank, Chief Executive Officer - Health System

8/9/2018

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MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Washington, Perez and Ashley  
Nays: None  
Absent: Tavaglione  
Date: September 11, 2018  
xc: EDA, RUHS, Purchasing

Kecia Harper-Ihem  
Clerk of the Board

By   
Deputy

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

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST:</b>	\$ 62,438	\$ 0	\$ 62,438	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> RUHS Enterprise Fund 40050 – 100% (Previously approved budget)			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 2018/19	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On November 1, 2016, Item 3-9, the Board of Supervisors (Board) approved in-principle the RUHS ED Modular Space project and the Lease Service Agreement with Design Space to house displaced RUHS hospital personnel during the course of the Emergency Department construction. The previously approved lease agreement covered the first year of the modular lease and included an option to renew. Construction of the Emergency Department is still underway, therefore there is a need to exercise the renewal option for the lease for one more year, therefore the Economic Development Agency recommends the Board approve the lease renewal in the amount of \$23,822 for FY 2017/18 lease period and \$38,616 for FY 2018/19 lease period to avoid any impacts on the Emergency Department project.

A sole source procurement justification has been provided for the incumbent lease holder as it would be impractical and more costly to solicit replacing the existing modular.

**Impact on Residents and Businesses**

Staff within the hospital have been relocated to modular offices in order for the multi-phased Emergency Department project to proceed as scheduled.

**Additional Fiscal Information**

Lease renewal costs associated with this Board action will be expended in FY 2018/19 with an option to renew for one more year if needed until project completion. Lease costs are 100% funded through the RUHS Enterprise Fund 40050.

**Attachments:**

- Sole Source with Design Space Modular Buildings, Inc.
- Lease Agreement with Design Space Modular Buildings, Inc.

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

RF:HM:VC:SP:mg

FM08430008125

7244-13864

S:\Project Management Office\FORM 11'S\Form 11's\_In Process\7244 - 13864\_D7 - 008125 - RUHS ED Mod Swing Spc Ofc - Sole Source & Renewal of Lease Agrmnt\_082818.doc

  
Nehini Basua, Principal Management Analyst 9/4/2018

  
Teresa Summers, Director of Purchasing 7/27/2018

  
Gregory V. Priapos, Director County Counsel 8/26/2018



Date: June 1, 2018  
From: Vincent Coffeen – Assistant Director  
To: Board of Supervisors/Purchasing Agent  
Via: Sergio Pena, Deputy Director  
EDA – Project Management Office  
Subject: Sole or Single Source Procurement; Project #FM08430008125  
Request for Modular Trailer Offices Lease Renewal to provide office space for  
the RUHS Emergency Department.

The below information is provided in support of my Department requesting approval for a sole or single source. (*Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole or single source.*)

1. **Supplier being requested: Design Space Modular Buildings, Inc.**
2. **Vendor ID: 117462**
3.  **Single Source**       **Sole Source**  
(*Single Source - is a purchase of a commodity or service without obtaining competitive bids although more than one source is available*)  
  
(*Sole Source - is a purchase of a commodity or service that is proprietary or no other vendor is qualified or willing to meet the county specified requirements*)
4. **Have you previously requested and received approval for a sole or single source request for this vendor for your department? (If yes, please provide the approved sole or single source number).**  
 **Yes**       **No**  
SSJ# 17-110 for \$50,000 to manufacture the modular office in FY16/17
- 4a. **Was the request approved for a different project?**  
 **Yes**       **No**
5. **Supply/Service being requested:** Exercise the option to renew the lease for an additional 12 months period and include the option to renew for a third 12 month period if needed. Original lease agreement #F003917 was approved via MO#3-9 on 11/1/2016 for the use of the modular office trailer for a 12 month period, after manufacturing and installation, during the RUHS Emergency Room remodel project.
6. **Unique features of the supply/service being requested from this supplier.** The RUHS Emergency Room remodel project is not yet completed so office space for the displaced hospital staff is still needed. Design Space Modular is the incumbent of the lease agreement for the modular that is currently being used. It is not practical or economically viable to solicit competition to replace the existing modular.

7. **Reasons why my department requires these unique features from the vendor and what benefit will accrue to the county:** Additional costs would be incurred by County if the modular provided by Design Space Modula were to be removed and replaced by a modular from another vendor.

8. **Period of Performance:** From: 3/1/2018 to 2/28/2019 (Renewal Year 2)  
3/1/2019 to 2/29/2020 (Optional Renewal Year 3)

Is this an annually renewable contract?  No  Yes  
Is this a fixed-term agreement:  No  Yes


9. **Identify all costs for this requested purchase. In addition, please include any single or sole source amounts previously approved and related to this project and vendor in the section designated below for current and future fiscal years. You do not need to include previous fiscal year amounts. If approval is for multiple years, ongoing costs must be identified below. If annual increases apply to ongoing costs such as CPI or other contract increases, provide the estimated annual cost for each consecutive year. If the annual increase may exceed the Purchasing Agent's authority, Board approval must be obtained. (Note: ongoing costs may include but are not limited to subscriptions, licenses, maintenance, support, etc.)**

Description:	FY16/17	FY17/18	FY18/19	FY19/20	Total
<b>One-time Costs:</b>					
Previously approved amount for project (MO#3-9) with 10% increase	\$171,032	\$12,930		\$13,622	\$197,584
<b>Ongoing Costs:</b>					
Year 1 Monthly lease cost of \$2,985 increase to PO needed. * See Note below		\$10,950			\$10,950
Year 2 Monthly lease cost of \$3,218		\$12,872	\$25,744		\$38,616
Year 3 Optional renewal - monthly lease cost of \$3,218			\$12,872	\$25,744	\$38,616
<b>Previous SSI Approved Amounts:</b>	\$50,000				\$50,000
Manufacture the modular office					
<b>Total Costs</b>	\$221,032	\$36,752	\$38,616	\$39,366	\$335,766

(\*Note: \$12,930 was remaining on the FY16/17 PO and rolled over into FY17/18. Tax amounts were not included in the original F11 cost, therefore an increase is needed to process all invoices.)

10. **Price Reasonableness:** RFP #FMARC-263 was issued in 2016 to solicit competition for the original modular office lease. Two firms responded and Design Space was the lowest responsive bidder. There has been no increases to the costs on the original lease agreement.

11. **Projected Board of Supervisor Date (if applicable):** July 17, 2018  
(Draft Form 11s, service agreement and or quotes must accompany the sole source request for Purchasing Agent approval.)

  
\_\_\_\_\_  
Department Head Signature (or designee)                      Print Name                      Date

The section below is to be completed by the Purchasing Agent or designee.

Purchasing Department Comments:

Approve

Approve with Condition/s

Disapprove

Condition/s:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Not to exceed:

One-time \$ \_\_\_\_\_

2/29/2020

Annual Amount \$ \_\_\_\_\_ / per fiscal year through \_\_\_\_\_ (date)

(If Annual Amount Varies each FY)

FY 17/18 : \$ 23,822

FY 18/19 : \$ 38,616

FY 19/20 : \$ 25,744

FY \_\_\_\_\_ : \$ \_\_\_\_\_

FY \_\_\_\_\_ : \$ \_\_\_\_\_

} THESE AMOUNTS ARE  
NEW AMOUNTS NOT ALREADY

APPROVED BY BOS OR PREVIOUS  
SOLE SOURCE



6/14/18

18-225

Purchasing Agent

Date

Approval Number

(Reference on Purchasing Documents)

88,182



LEASE AGREEMENT NO: F003917R1

CUSTOMER NUMBER: 01-CNTYRIV

CUSTOMER PO/REF. NUMBER: MARCO 07071

**RETURN EQUIPMENT TO DSMBI:**

10631 Banana Ave.  
Fontana, CA 92337  
Phone: 909-349-2800

Equipment Located At	Contact Info:	
R.U.S.H. Office 26520 Cactus Ave Riverside, CA. 92555	Name:	Chuck Waltman
	Phone:	951.955.4897
	E-mail:	CWaltman@rivcoeda.org

DESIGN SPACE MODULAR BUILDINGS, INC. (DSMBI) hereby leases the equipment specified below (the "Equipment") to:

Lessee Name (Customer) & Address
County of Riverside Purchasing and Fleet Services Dept. 2980 Washington St Riverside, CA. 92504

\*\*\*DO NOT MAIL \*\*EMAIL ONLY \*\*\*

EDFM-Invoices@rivco.org

Customer hereby leases Equipment from DSMBI for a minimum period of **12 months** (the "Minimum Lease Period") from the start of the lease term in accordance with the terms and conditions of this Lease Agreement including the terms and conditions set forth on the attached page (this "Lease"). Rental month is defined as a thirty-day period. Customer agrees to pay DSMBI without demand and in advance the monthly rental and other charges on the due dates set forth in this Lease. The renewal date for the Equipment, will be on the **7th day of MARCH, 2018**.

Unit No.	Serial No.	Width	Length	Monthly	Weekly	Daily	Insurance Value
6736-41	PMI-3676	72	60	\$2,908.34	\$969.45	\$193.89	\$251,944

ONE TIME CHARGES			AMOUNT	MONTHLY CHARGES			AMOUNT
<i>Billed At Time Of Delivery</i>				BUILDING *			\$2,908.34
• DELIVERY (405)			N/A	ADDITIONAL LEASE COSTS			
• BLOCK AND LEVEL/SET-UP			N/A	OTHER -			
• ANCHORS *	N/A	28	N/A	INSURANCE WAIVER @ 1.00/day per floor			
• SKIRTING *	N/A	264	N/A				
• MODIFICATIONS: MATERIAL *			N/A				
• RAMP & LANDING: MATERIAL *			N/A				
• RAMP DELIVERY & SET-UP:			N/A				
• PLUMBING CONNECTION:			N/A				
<i>Billed At Time Of Return</i>							
• RAMP TEAR DOWN & RETURN			\$4,264				
• RETURN DELIVERY			\$2,243	<b>*TAXABLE ITEMS</b>			
• UNBLOCK/TEARDOWN			\$5,425	<b>SUB-TOTAL MONTHLY</b>			\$2,908.34
• ANCHOR & SKIRT REMOVAL			\$1,690	<b>DOH/DMV/PPT Tax*</b>			\$78.18
				<b>SALES TAX 7.75%</b>			\$231.45
				<b>TOTAL MONTHLY</b>			\$3,217.97

\*\*\* Billed at current rate at Termination

Advance Payments	Description of Charges / Payment to be Applied	Amount
Applied to 1 <sup>st</sup> Invoice(s)		
Applied to Final Invoice(s)		

No agent, employee or representative of DSMBI has any authority to make any representation or warranty concerning the Equipment that is not specifically included in this Lease. Unless specifically identified in this Lease, this Lease supersedes all prior negotiations, proposals and documents. This Lease will not be subject to any additional provision that may be contained in the Customer's purchase order, although the parties may use Customer's purchase order number as a convenient reference for invoicing purposes. Steps not returned are billed at \$687.00/each. Keys not returned are billed at \$50.00/each.

Signed by duly authorized agents, with the intent to be legally bound, this 11th day of September, 2018.

By: [Signature]  
DESIGN SPACE MODULAR BUILDINGS INC.

By: [Signature]  
CUSTOMER OR AUTHORIZED AGENT

Name: Mike Forrest  
SALES REPRESENTATIVE

Name: CHUCK WASHINGTON  
(Please Print)

ATTEST:  
KECIA HARRPER-IHEM, Clerk of 6  
By: [Signature]  
DEPUTY

SEP 11 2018 3.16

FORM APPROVED COUNTY COUNSEL  
BY: Synthia M. Gunzel 8-25-18  
DATE  
SYNTHIA M. GUNZEL

## TERMS AND CONDITIONS OF LEASE AGREEMENT

### 1. LEASE

This transaction is a lease and not a sale. Customer does not acquire through this Lease or by payment of rental under this Lease any right, title or interest in or to the Equipment, except the right to possess and use the Equipment so long as Customer is not in default under this Lease.

### 2. RENTAL AND OTHER PAYMENTS

- (a) The start of the lease term is the date on which DSMBI substantially completes its scope of work for installation, unless otherwise agreed to among the parties. Monthly rental will accrue through and including the month in which the later of the Return Date or End of the Term occurs. The "Return Date" is the date on which the Equipment is returned to DSMBI in accordance with the terms of this Lease. The "End of the Term" is the date on which the term of this Lease is to expire either originally, under a renewal term or under month-to-month renewals as contemplated by this Lease. Rental and such other charges will be prorated on a daily basis where necessary. Unless otherwise specified in this Lease, charges for delivery and installation, initial month's rent and any applicable initial charges as outlined on the front of this agreement will be due and payable at the start of the lease term, and charges for teardown and return will be due and payable at the earlier of the Return Date or the End of Term. After payment of the initial month's rent, each month's rent thereafter is due and payable without demand and in advance (i) at the end of each thirty (30) day period following the commencement of the lease term, if a rental month is defined on the first page of this Lease as a thirty-day period or (ii) on the first of each month immediately following the month in which this lease commences, if a rental month is defined on the first page of this Lease as a calendar month. All other sums payable by Customer under this Lease are due and payable when invoiced. Unless agreed otherwise, all payments made under this Lease will be made by Customer's check drawn on its regular bank checking account or such other form of payment as is acceptable to DSMBI. All payments by Customer will be made without setoff or deduction of any kind.
- (b) Customer will pay DSMBI for any and all sales and use taxes, other direct taxes and registration fees imposed by any city, county, state, or federal government or other taxing authorities and related directly or indirectly to the Equipment or its use, excluding federal or state taxes relating to income (all of the foregoing that Customer is to pay, "Taxes"). Taxes may be allocated by DSMBI on either an individual or prorated basis for any item of Equipment based on purchase price, value, possession, use, location, rentals, delivery or operation of such Equipment. Taxes may include an allocation on a statewide basis of locally imposed taxes. Customer's obligations under this Subsection will survive the termination of this Lease.
- (c) For Customer's convenience, DSMBI intends to issue invoices for amounts due under this Lease. If Customer fails to pay any amount due within twenty (20) days of the due date, DSMBI may impose a charge on such amount at one and one-half percent (1-1/2%) per month or the highest rate permitted by law, whichever is lower, from the due date until payment in full is received by DSMBI.

### 3. Delivery and Installation

- (a) Customer will provide free and clear access for delivery of the Equipment by standard mobile transport vehicles. Customer will be solely responsible, at its cost, for preparation of the site on which the Equipment is to be use (the "Site"), including any required structural or grade alterations and identification of utility lines. Customer will provide firm and level ground on no more than six-inch (6") slope from one end to the other for safe and unobstructed installation for the Equipment. Site election is the sole responsibility of Customer. **DSMBI ASSUMES NO LIABILITY OR OFFERS ANY WARRANTY FOR THE FITNESS FOR ADEQUACY OF THE UTILITIES AVAILABLE AT THE SITE.**
- (b) Customer will have sole responsibility, at Customer's cost, to obtain any and all licenses, titles, building and other permits and any other approvals and certificates as may be required by law or otherwise for the installation and placement of the Equipment and Customer's lawful operation, possession or occupancy of the Equipment, Customer agrees that all certificates of title or registration applicable to the Equipment will reflect DSMBI's ownership of the Equipment.
- (c) DSMBI's delivery of the Equipment is subject to delays in manufacturing, modification, delivery or installation due to fire, flood, windstorm, riot, civil disobedience, strike or other labor actions, acts of God, or any circumstances beyond DSMBI's control (including but not limited to breaches by DSMBI's sub-contractors or manufacturers) which delay the manufacture or modification of products or the making of deliveries in the normal course of business.
- (d) The prices for delivery, installation, teardown, return delivery and other "one-time" charges, the due dates of such charges and the start date of this Lease assume accuracy of the information given to DSMBI with respect to site conditions and locations and are subject to adjustment to the extent that the timing of or physical nature of access to the Site is or becomes limited, the Site does not have adequate load bearing or topographic qualities or is otherwise not properly prepared, utilities are not correctly located, provision of utilities is not timely or applicable licenses or permits are not provided in a timely manner or Customer otherwise delays completion of DSMBI's scope of work.

### 4. Maintenance of Equipment

- (a) Customer will not move or in any way modify the Equipment without written consent of DSMBI. Notwithstanding DSMBI's consent to Customer's modification of the Equipment, Customer is liable for the cost of the removal of such modification or restoration of the Equipment upon the termination of this Lease for the modified Equipment. DSMBI may place its name on the Equipment, and Customer will assure that such name is not removed or concealed in whole or in part.
- (b) Customer, at Customer's sole cost, will keep the Equipment at all times until the Return Date in good repair and operating condition, return it in the same condition it was delivered subject to ordinary wear and tear, and free of any and all liens and encumbrances. DSMBI will have the right to inspect the Equipment from time to time until the Return Date and if DSMBI believes the Equipment to be misused, abused or neglected, DSMBI may summarily remove and repossess the Equipment at Customer's cost.
- (c) DSMBI will warrant the structural integrity of the building(s) and any defect not caused by excessive wear and tear during the lease term, including damage caused by extreme wear from the environment where the customer locates the equipment. However, the Customer will be responsible for normal maintenance such as changing HVAC filters, light bulbs, janitorial services, and other minor repairs. DSMBI will be provided reasonable notice and time to correct defects.



- (d) Customer will perform, execute and comply with all Laws, which in any way affect the use, operation, maintenance, or storage of the Equipment. "Laws" means all laws, rules, regulations or orders of any governmental agency or instrumentality of the United States, Canada, any state province, municipality or other local government and all orders, writs and decrees of any court, tribunal or administrative agency, in any case which now exist or hereafter arise (including but not limited to laws governing Hazardous Substances and other environmental risks and the Americans with Disabilities Act). Customer will not make or permit any unlawful use or handling of the Equipment.
- (e) HAZARDOUS SUBSTANCES. (i) "Hazardous Substances" means hazardous, toxic, radioactive or bio-hazardous substances or petroleum products. (ii) Customer will not use or store Hazardous Substances in the Equipment, except such substances and in such quantities as would be normal in the operation of a commercial office. Customer will not locate the Equipment at a remediation or nuclear site or use the Equipment for medical laboratory testing. (iii) Ordinary wear and tear does not include contamination by Hazardous Substances. If any returned Equipment is found to have been contaminated by Hazardous Substance during Customer's possession, DSMBI may charge Customer for the clean up or may require Customer to purchase the Equipment at the then current market price charged for an uncontaminated unit.
- (f) Customer agrees that any person other than Customer or its agents, employees or invitees will not occupy the Equipment leased hereunder. The Equipment will not be used for residential or dormitory purposes.

**5. NO WARRANTY FOR MERCHANTABILITY OR FITNESS**

THERE ARE NO WARRANTIES, EXPRESSED OR IMPLIED, AND ALL WARRANTIES OF ANY KIND, INCLUDING ANY EXPRESSED OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE, ARE HEREBY EXCLUDED BOTH AS TO THE EQUIPMENT AND AS TO ANY INSTALLATION, MAINTENANCE OR REPAIR WORK PERFORMED BY DSMBI ON THE EQUIPMENT.

**6. Limitation of Damages**

Customer does hereby expressly waive any and all claims and demands for loss of profits or other alleged consequential, incidental or punitive damages arising out of or in connection with this Lease. DSMBI is not liable for any loss or damage to any property stored, located or transported in, upon, under or around any Equipment and Customer does hereby waive any and all claims and demands for any such loss or damage.

**7. End of Lease**

- (a) Unless specified otherwise, Customer must give DSMBI sixty (60) day's prior written notice of the date on which the Equipment is to be returned.
- (b) If Customer, without any further written agreement, continues to possess or occupy the Equipment after the expiration of the initial and any renewal term of Lease, with or without consent of DSMBI, Customer will then be deemed to have renewed this Lease on a month-to month basis subject to such rate as DSMBI declares to be in effect (and in the absence of such declaration at the last monthly rate applicable to the Equipment), and DSMBI may terminate such month-to month extensions at any time.
- (c) If, at any time after the initial or any renewal term (or at DSMBI's request at any time this Lease is on a month-to month basis), DSMBI requests the return of the Equipment, Customer will return the Equipment to DSMBI, within five (5) days, at DSMBI's designated address, at Customer's sole cost. Additional charges will apply if DSMBI must return the building and the building's path of removal is blocked, obstructed, utilities are not disconnected, require equipment beyond a truck, or impaired in any way. Missing accessories, attachments or other items, repairs of any kind and restoration to original specifications whether due to Customer alterations or otherwise will remain the sole responsibility of Customer, normal wear and tear excepted.
- (d) Customer may terminate this Lease prior to the expiration of the Minimum Lease Period, subject to all terms and conditions of this Lease, and the Customer will pay (in addition to tear-down and return charges) the following termination charges:
  - i) If Customer is the first user of the Equipment: the remaining unpaid rental charges for the Minimum Lease Period;
  - ii) If Customer is not the first user: The lesser of the remaining term or, (A) if the Minimum Lease Period ("MLP") is less than three (3) rental months, four (4) times the Adjusted Weekly Lease charge ("AWLC"); if the MLP is between three (3) rental months and six (6) rental months, inclusive, eight (8) times the AWLC; if the MLP is more than six (6) rental months but one (1) year or less, twelve (12) times the AWLC; if the MLP exceeds one (1) year, fourteen (14) times the AWLC for each year, or portion thereof, of the portion of the MLP cancelled.
  - iii) The "Adjusted Weekly Lease Charge" or "AWLC" means the Weekly Lease Charge less that portion representing amortization of any delivery, set-up, teardown, return or similar one-time charges and customer-requested modifications not provided as a separate charge under the terms of this Lease (the "Amortized One-Time Costs"). In addition to the termination charges outlined above, Customer will pay in full the unpaid Amortized One-Time Costs and rental for ancillary equipment such as steps, decks, and ramps. In no case will the termination charges be in excess of the rental charge for the remainder of MLP.

**8. Indemnification**

Customer hereby specifically indemnifies, agrees to defend and holds harmless DSMBI, its employees and agents from any and all loss, claims, liabilities, damages, fines, forfeitures, seizures, penalties and expenses (including attorneys' fees and investigative costs) (collectively "Losses") that may arise from or in connection with:

- (a) The loss of or damage to the Equipment prior to the Return Date because of collision, fire, lightning or theft, flood, windstorm or explosion, civil disturbance or riot or any other peril or casualty;
- (b) The death of or injury to, including but not limited to, damage to the property of, any person (other than the Equipment) as a result of, in whole or in part, the use or condition prior to the Return Date of the Equipment;
- (c) Any act or omission of Customer in violations of this Lease;
- (d) The actual or alleged storage maintenance, use, handling, repair, or operation of the Equipment, prior to the Return Date, including but not limited to any failure to use anchor straps, any work done on, or any materials supplied to or in connection with operation, maintenance, possession or storage of the Equipment and any loss or damage to anything stored in any of the Equipment; and
- (e) Any damage to Customer's property or the property of any third parties incurred during or in connection with the fulfillment of Customer's obligations by or on behalf of DSMBI or the repossession or return of Equipment by DSMBI in accordance with the terms of this Lease.

The obligations contained in this Section 8 will survive expiration or termination of the term of this Lease and the Return Date. The indemnifications contained in this Section 8 will apply to Losses whether they are asserted before or after the Return Date.

## 9. Insurance

- (a) Customer, at Customer's sole cost, will procure and keep in full force and effect, from the initial delivery date until the return of all Equipment the following policies of insurance satisfactory to DSMBI as to the insurer and as to the form and amount of coverage, with premiums prepaid:
  - i) Commercial General Liability Insurance with a minimum combined single limit of \$1,000,000 per occurrence, written on an occurrence form, including coverage for premises, operations, contractual liability, broad form property damage, independent contractors and personal injury liability naming DSMBI as an additional insured.
  - ii) Commercial Property Insurance protecting against all loss and damages, at full replacement cost, sustained or suffered due to the loss of or damage to the Equipment as a result of collision, fire, lightning, theft, flood, windstorm, explosion or any other casualty, naming DSMBI as a loss payee, with a maximum deductible of \$500.
- (b) Customer will deliver certificates evidencing all such insurance to DSMBI within fourteen (14) days after delivery of the Equipment to Customer's site, time being of the essence; except that, if Customer elects to enroll in the Damage Waiver Option, Customer will not have to deliver certificates of insurance to DSMBI for the type of risks covered by the Damage Waiver Option as elected by Customer. Each certificate will state that such insurance will not terminate or be materially changed without thirty (30) days' prior written notice to DSMBI.
- (c) If Customer fails to deliver the insurance certificate as required by paragraph (b) on the date required, Customer will be in default under this Lease. In addition to all the other remedies for default under this Lease, DSMBI may (i) impose upon Customer a one-time fee for insurance processing of One Hundred Dollars (\$100) and (ii) assess as additional rent an uninsured lessee fee of ten percent (10%) of the monthly rental from the start of the lease term until the required insurance certificate is delivered to DSMBI.
- (d) Obtaining insurance as described above will not affect Customer's obligations and indemnities under this Lease, and the loss, damage to, or destruction of any of the Equipment will neither terminate this Lease nor, except to the extent that DSMBI is actually compensated by insurance paid for by Customer, relieve Customer of any of Customer's liability under this Lease.

## 10. Damage Liability Waiver

- (a) In certain circumstances, Customer may choose to accept a Damage Waiver Option to cover damage to the Equipment (the "Damage Waiver Option"). If the Damage Waiver Option is available and Customer, in writing prior to delivery of the Equipment to the site, elects to enroll in the Damage Waiver Option, then, Section 10(b) will apply.
- (b) If the Damage Waiver Option is properly elected and so long as Customer timely pays the additional fee specified for such Damage Waiver Option, Customer will not be required, under the terms of this Lease, to carry any additional commercial property insurance as required by Section 9(a) (ii) and Customer will not be liable to DSMBI in excess of \$500 per unit of Equipment for loss or damage specified in Section 8(a), except customer will not be relieved of liability if Customer violates any other provision of this Lease or if damage results from theft, vandalism, negligence, misuse or abuse. **THE DAMAGE WAIVER IS NOT INSURANCE COVERAGE.**
- (c) Either party may cancel customer's acceptance of the Damage Waiver Option, or fees for the Damage Waiver Option may be changed upon thirty (30) days prior written notice. If the Damage Waiver Option is, for any reason, cancelled, Customer will provide to DSMBI evidence of policies of insurance as set forth in Section 9 (a) (ii), as appropriate, within ten (10) days prior to the effective date of such cancellation.
- (d) The limitation of liability under the Damage Waiver Option does not extend to the transportation of Equipment or its contents, or to steps, decks and ramps and, only extends to Equipment installed on ground level with properly installed tie-down anchors.
- (e) The Damage Waiver Option will not be binding upon DSMBI unless any loss, damage, injury or claim is reported to DSMBI in writing within seventy-two (72) hours of the occurrence of any such event. Customer will also provide any information in regard to such event that DSMBI reasonably requests.

## 11. Default

- (a) The occurrence of one or more of the following in clauses (a)-(e) below will constitute an Event of Default under this Lease:
- (b) Customer fails to pay when due any rental payment or any other payment due under this Lease or fails to perform its obligations under Section 9 of this Lease;
- (c) Customer fails to perform or observe any other term or condition under this Lease and such failure remains unremedied for more than ten (10) days after such failure to perform or observe;
- (d) Customer or any person or entity which controls more than fifty percent (50%) of Customer's equity (a "Control Person") or any guarantor of any of Customer's obligations hereunder (a "Guarantor") (i) becomes insolvent, (ii) becomes subject to any voluntary or involuntary bankruptcy or reorganization proceedings, (iii) commits an act of bankruptcy, (iv) admits in writing its inability to pay its debts as they become due or (v) enters into any type of voluntary or involuntary liquidation or dissolution;
- (e) Customer, any Control Person or any Guarantor defaults under any other agreement with DSMBI or any affiliate of DSMBI; and
- (f) Any letter of credit, guaranty or other security given to secure the performance of Customer's obligations under this Lease expires, terminates or in the reasonable opinion of DSMBI becomes worthless.

Upon the occurrence of an Event of Default, DSMBI will have the option to declare the entire balance of rent for the remainder of the stated lease term immediately due and payable and to accelerate and make immediately due and payable any other amounts owing under this Lease. DSMBI will also have the option to retake and retain any or all of the Equipment free of all rights of Customer without any further liability or obligation to redeliver any of the Equipment to Customer, and Customer hereby grants DSMBI the right to enter upon any premises where all or any of the Equipment is located in order to take possession of and remove such Equipment. (Notwithstanding the foregoing, if an Event of Default occurs under clause (c) above, such accelerations will occur automatically without the need for declaration.) Customer will pay to DSMBI's on demand all fees; costs and expenses incurred by DSMBI in enforcing its all other remedies provided in the Lease or exist in at law or in equity. No action taken by DSMBI pursuant to this Section 11 or Section 13 will release Customer from Customer's covenants, obligations and indemnities provided under this Lease, including but not limited to Customer's obligation for the payment of rentals provided in the Lease. If DSMBI retakes possession of the Equipment or any part of the Equipment and there is at the time of such retaking, in upon or attached to such repossessed Equipment, any other property, goods or things of value owned by Customer or in the custody or control of Customer, DSMBI is authorized to take possession of such other property, goods or things and hold the same for Customer, at Customer's sole cost, either in DSMBI's possession or in public storage, at DSMBI's sole discretion.

**12. DSMBI's RIGHT TO CURE**

If Customer defaults in any of its obligations under this Lease, whether or not an Event of Default then exists, DSMBI may pay all amounts or perform or cause to be performed all obligations required to be paid or performed by Customer under this Lease and recover from Customer as additional rent all amounts so paid or the reasonable value of all services so performed.

**13. Set-Off**

Without limiting any other provision of this Lease, upon the occurrence of an Event of Default, DSMBI will have the immediate right, without notice, demand or other action, to set-off against Customer any amounts DSMBI may hold as prepayments or deposits for DSMBI liabilities to Customer whether or not then due to Customer. Unless otherwise prohibited by law, DSMBI will be deemed to have exercised such right to set-off and to have made a charge against any such sums immediately upon the occurrence of any Event of Default by Customer.

**14. Assignment, Amendment, Modification, Miscellaneous**

- (a) Customer will not have the right to assign this Lease or to sublet, rent or otherwise hire out or transfer possession of any of the Equipment to any person or entity other than DSMBI, without the prior written consent of DSMBI. DSMBI may assign this Lease and the rentals reserved under this Lease. If DSMBI makes such an assignment, the assignee will acquire all rights and remedies possessed by or available to DSMBI under this Lease.
- (b) This Lease contains the entire agreement between the parties pertaining to the subject matter of this Lease. No agreements, representations or understandings not specifically contained in this Lease will be binding upon any of the parties hereto unless reduced to writing and signed by the parties to be bound thereby. Any amendment, modification or addendum to this Lease will not be binding on DSMBI unless signed by an authorized officer of DSMBI. This Lease will be governed as to its construction, interpretation and effect by the laws of the *State of California* without regard to principles of choice of laws.
- (c) In the event of any legal action or other proceeding between the parties regarding this Agreement, the prevailing party shall be entitled to the payment by the losing party of its reasonable attorneys' fees, court costs and litigation expenses, as determined by the court.

**CONTRACT INSURANCE REQUIREMENTS FOR MOBILE/MODULAR BUILDINGS**

RE: Unit #: \_\_\_\_\_ Serial #: \_\_\_\_\_ Insurance Valuation: \$ \_\_\_\_\_

(Section 9 of Lease Agreement)

<u>COMMERCIAL GENERAL LIABILITY:</u>	\$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage; Or combined single limit of \$1,000,000 DESIGN SPACE MODULAR BUILDINGS must be listed as "ADDITIONAL INSURED"
<u>COMMERCIAL PROPERTY:</u>	Special or Broad Form to include ALL LEASED UNITS, \$500 maximum deductible (Flood insurance required for Units located on a Flood Plain) DESIGN SPACE MODULAR BUILDINGS must be listed as "LOSS PAYEE"
<u>CANCELLATION NOTICE:</u>	30 days written notice

Design Space Modular Buildings will waive the contractual requirement that you provide property insurance that protects Design Space Modular Buildings and will waive certain liabilities to Design Space Modular Buildings as outlined below.

Daily Rate:                      **Waiver for Damage to Building**    **\$ 1.00/day/unit**

**Note: WAIVERS ARE NOT INSURANCE COVERAGE** - The waivers do not relieve you of any liabilities to parties other than Design Space Modular Buildings and, as set forth below, certain liabilities to Design Space Modular Buildings are not waived.

**What is Waived:**

Liability: There is no waiver available for General Liability. Please refer to your obligation under Section 9 of the lease agreement and as summarized above for the insurance requirements for General Liability coverage.

Damage Waiver: We waive (a) your obligation under the lease agreement to carry commercial property insurance and (b) your liability to us for repair or replacement of the building structure for loss or damage resulting from fire, lightning, flood, windstorm, or explosion. You will remain liable to us for the first \$500 of damage per unit. Except, customer will not be relieved of liability if Customer violates any other provision of this Lease or if damage results from theft, vandalism, negligence, misuse or abuse.

If you want to accept the property waiver complete item 1 and 2. If you elect no waiver, complete item 2.

1.  YES, I (the Lessee) want to take advantage of the **Damage Waiver** option as outlined above.

**Please bill me for the quoted rate which will appear on my monthly invoice. The waiver is subject to cancellation and the other terms and conditions set forth in the lease agreement.**

2.  I (the Lessee) have Insurance in accordance with Section 9 of the lease agreement with respect to any category not waived. **I will deliver a certificate of Insurance to DSMB WITHIN 14 DAYS OF EQUIPMENT DELIVERY as required by Section 9 of the lease agreement.** DSMB has provided the 14 day grace period as a convenience to customers. I understand that time is of the essence and that if I do not deliver the certificate of insurance within the grace period, I will be in default under the lease agreement and DSMB at its option may, among other actions, impose a one-time fee for processing of up to One Hundred Dollars (\$100) and may assess as additional rent an uninsured lessee fee of ten percent (10%) of the monthly rental from the start of the lease term until the required insurance certificate is delivered to DSMB.

**INSURANCE COMPANY:** \_\_\_\_\_ **AGENT NAME:** \_\_\_\_\_

**INSURANCE COMPANY ADDRESS:** \_\_\_\_\_

**AGENT PHONE NO. :** \_\_\_\_\_ **AGENT FAX NO.:** \_\_\_\_\_

**ACKNOWLEDGEMENT**

\_\_\_\_\_  
 SIGNATURE OF LESSEE OR AUTHORIZED AGENT

\_\_\_\_\_  
 PRINT NAME

\_\_\_\_\_  
 DATE

**NOTE: In the absence of a response within 14 days of the date of this correspondence the terms outlined under item 2 will apply**

**Mail All Certificates To:** Design Space Modular Buildings  
 10631 Banana Avenue  
 Fontana, CA 92337

**E-Mail Certificates To:** Ar101@DesignSpaceMod.com

**Lease Termination Form  
Branch # 101**

Submitted By: NANCY JEREZ

Date: 8/17/2018

Lease #	Unit #	Customer #	Customer Name
F4526	6093	01-RISINGT	RISING EDGE TECHNOLOGIES

Lease Contract Full Term Date	Unit Return Date	Branch Requested Bill Thru Date	MAS90 Bill Thru Date	Last Rebill Invoice Number
12/09/18	8/9/2018	8/9/2018	09/09/18	1041030

**Final Charges**

Description of Charges	QTY	Billing Code	Amount
Rent to complete Contract		400	
Return Delivery		407	\$ 412.00
Teardown		408	\$ 112.00
Remove Anchors		410	
Remove Skirting		233	
ET Term Charge (SALES TAX NOT INCLUDED 7.75%)		400	\$ 1,126.06
<b>Total Other Charges:</b>			\$ 1,650.06

Additional Lease Cost (ALC)- In the event of Early Termination:

select from dropdown box:

Remaining amount to be billed:

Customer Invoice Activity Form Generated for Credit (OBAT)

select from dropdown box:

CIA#:

**INTERNAL COMMENTS ONLY**

Note to Billing Clerk -

Note to Branch:

**INVOICE COMMENTS ONLY**

**UNIT RETURNED**

8/9/2018

Authorized Signature: NANCY JEREZ

Date: 8/17/2018

**NOTE: ALL BILL THRU DATES WILL BE VERIFIED AND CIAS APPLIED ACCORDINGLY.**