

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



ITEM
3.5
(ID # 9862)

MEETING DATE:
Tuesday, June 4, 2019

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA):

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA): Riverside University Health System Medical Center – Medical Office Building and Pavilion Project, Restaurant Provider Moreno Valley, - Approval of Revenue Lease Agreement with Panera, LLC, District 5. [\$0], (Clerk of the Board to file the Notice of Exemption)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301(b)(3), Existing Facilities exemption, and Section 15061(b)(3), "Common Sense" exemption;
2. Approve the Revenue Lease Agreement between the County of Riverside and Panera, LLC, and authorize the Chairman of the Board to execute the attached Revenue Lease on behalf of the County;
3. Authorize the Assistant County Executive Officer/ECD, or his designee, to execute any and all other documents to complete this transaction; and
4. Direct the Clerk of the Board to file the attached Notice of Exemption with the County Clerk for filing within five (5) working days of approval by the Board.

ACTION: Policy

Robert Field, Assistant County Executive Officer/ECD 5/22/2019

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: June 4, 2019
xc: EDA, Recorder

Kecia Harper
Clerk of the Board
By:
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS:			Budget Adjustment: No	
			For Fiscal Year: 2019/20 – 2029/30	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On April 18, 2017 and on November 14, 2017, as items 3.29 and 3.15 respectively, the Board of Supervisors approved the Medical Office Building (MOB) project to be completed at the Riverside University Health System Medical Center in Moreno Valley (RUHS-MC). The project is a public-private partnership (P3) between the County of Riverside and the Trammell Crow Company to plan, design and construct a 200,000 square foot MOB and an approximate 6,541 square foot Lobby/Café Pavilion (Pavilion) to include a new Food Service Provider Restaurant. Construction is well underway for both the MOB and the Pavilion projects.

To market the need for a new restaurant at the new project, EDA Real Estate issued a Request for Proposal for a Food Service Operator in June of 2018. Proposals were received, analyzed, and respondents were interviewed. Panera, LLC (Panera), was selected.

Through a lease Panera will operate a new restaurant in the soon to be completed Pavilion which will consist of indoor restaurant seating and outdoor patio seating. Panera is the largest bakery-café restaurant concept in the nation and is credited as being one of the creators of the fast casual restaurant segment. Panera owns and operates over 2,400 bakery cafés in 47 states and in Ontario, Canada. In addition to restaurant operations within the new Pavilion, Panera will operate a "Grab and Go" within the MOB on the ground level. Panera will also provide catering services for the RUHS-MC operations.

The addition of this new Panera Restaurant within the new Pavilion facility, together with the new MOB, hospital lobby approach and landscape and hardscape improvements, will collectively transform the look, feel and environment of the current hospital campus creating a quality, healthy and modern and accessible environment.

The Revenue Lease Agreement is summarized as follows:

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

Lessor: County of Riverside

Lessee: Panera, LLC, a Delaware Limited Liability Company
Location: 26520 and 26600 Cactus Avenue, Moreno Valley

Square Footage: Restaurant Area: 2,816 sf; Grab and Go Area: 607 sf

Term: Ten (10) Years, with two (2) five-year options to renew

Revenue: \$50,000 per year, payable monthly, Years 1 – 5
\$55,000 per year, payable monthly, Years 6 – 10
\$60,500 per year, payable monthly, Years 11 – 15 (Option Period)
\$66,550 per year, payable monthly, Years 16 – 20 (Option Period)

Additional Revenue: Five (5%) of Gross Sales over \$1,500,000 annually, Years 1 – 5
Five (5%) of Gross Sales over \$1,575,000 annually, Years, 6 – 10
Five (5%) of Gross Sales over \$1,653,750 annually, Years 11 – 15
Five (5%) of Gross Sales over \$1,736,437 annually, Years 16 – 20

Maintenance: Responsibility of Lessee

Custodial: Responsibility of Lessee

Utilities: Responsibility of County

Tenant Improvements: Included in the RUHS Medical Office Building Project Tenant Improvement Allowance

California Environmental Quality Act

Pursuant to the California Environmental Quality Act (CEQA), the Lease was reviewed and determined to be categorically exempt from CEQA under State CEQA Guidelines Section 15301 Class 1-Existing Facilities exemption and Section 15061(b)(3) "Common Sense" exemption. The proposed project is the letting of property involving existing facilities.

Impact on Citizens and Business

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

This project will provide a number of positive and impactful benefits to both citizens and businesses in this region of the County. This project will provide an important benefit to the employees and customers of the RUHS Medical Center. There are both short-term construction jobs and long-term jobs, as a result of the project and which will provide a positive economic impact to the community.

Additional Fiscal Information

No County General Funds are required.

Contract History and Price Reasonableness

This is a new Revenue Lease Agreement and the Revenue negotiated and terms of the Agreement are competitive in the marketplace.

Additional Fiscal Information

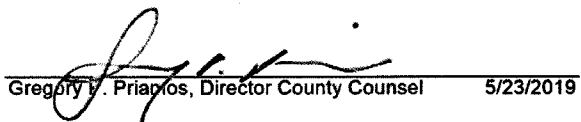
Revenue to the County will not commence until County completes the tenant improvements and Panera completes installation of Furniture, Fixtures, and Equipment.

Attachments:

- Revenue Lease Agreement with all exhibits/attachments
- Notice of Exemption
- Aerial Image

RF:HM:VC:VY:SG:jb
Minute Traq ID 9862


Nehini Maana, Principal Management Analyst 5/28/2019


Gregory V. Priamos, Director County Counsel 5/23/2019

Riverside University Health System Bakery Cafe



Legend

- County Centerline Names
- County Centerlines

Notes
 APN: 486280037
 District 5

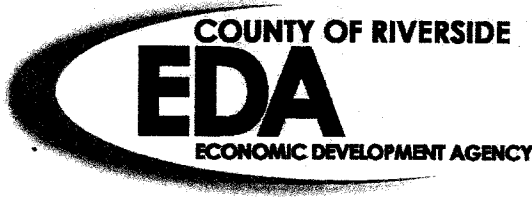
IMPORTANT Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.




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Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on.

6/4/19 Date

WB Initial

NOTICE OF EXEMPTION

May 8, 2019

Project Name: County of Riverside, Economic Development Agency (EDA) Riverside University Health System (RUHS) Medical Center – Medical Office Building (MOB) and Pavilion Project, Restaurant Provider Revenue Lease Agreement, Moreno Valley

Project Number: FM0417200242

Project Location: 26600 Cactus Avenue, west of Nason Street, Moreno Valley, California 92555 Assessor’s Parcel Number (APN): 486-280-037

Description of Project: On April 18, 2017, Item 3.29, the County of Riverside (County) Board of Supervisors (Board) approved the agreements necessary for the development of a new three level 200,000 square foot MOB to be constructed at the RUHS Medical Center property in Moreno Valley. The project is a public private partnership (P3) between the County of Riverside and the Trammell Crow Company to plan, design and construct an MOB and an approximate 6,800 square foot Lobby/Café Pavilion to accommodate a new Food Service Provider Restaurant. EDA Real Estate issued a Request for Proposal for a Food Service Operator in June of 2018. Proposals were received, analyzed, and Respondents were interviewed. Panera, LLC (Panera Bread), was selected. A Revenue Lease Agreement with Panera, LLC is being sought to provide for the operation of a bakery-café restaurant for off-Premises and on-Premises consumption. Panera Bread will operate the restaurant in the Pavilion which will consist of indoor restaurant seating and patio seating. In addition to restaurant operations within the new Pavilion, Panera Bread will operate a “Grab and Go” within the MOB on the ground level. Panera will also provide catering services for the RUHS Medical Center operations. To provide efficient operations, Panera Bread will provide Advanced Ordering for To Go/Rapid Pick UP, Fast Lane Kiosks for Dine-in and To Go ordering, and customized ordering. The term of the lease is for a 10-year period, with two options to extend for a period of five years each. The Revenue Lease Agreement with Panera, LLC to operate the operation of a bakery-café restaurant is identified as the proposed project under the California Environmental Quality Act (CEQA). No additional direct or indirect physical environmental impacts are anticipated.

Name of Public Agency Approving Project: County of Riverside, Economic Development Agency

Name of Person or Agency Carrying Out Project: County of Riverside, Economic Development Agency and Panera, LLC

Exempt Status: State CEQA Guidelines, Section 15301, Class 1, Existing Facilities Exemption; Section 15061(b) (3), General Rule or “Common Sense” Exemption, Codified under Title 14, Articles 5 and 19, Sections 15061 and 15300 to 15301.

Reasons Why Project is Exempt: In accordance with CEQA, all potentially significant effects for the construction and operation of the RUHS MOB), including a fully staffed, designed and programmed MOB were adequately analyzed in an Environmental Assessment: Initial Study RIVCO/CEQA 2016-04I, and adopted by the Board in a Negative Declaration on April 18, 2017. Therefore, the proposed project is limited to the execution of a Revenue Lease Agreement to provide food services and is categorically exempt from the provisions of CEQA specifically by the State CEQA Guidelines as identified

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P.O. Box 1180 • Riverside, California • 92502 • T: 951.955.8916 • F: 951.955.6686 org

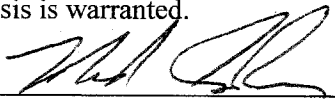
- Administration, Aviation, Business Intelligence, Cultural Services, Community Services, Custodial, Housing, Housing Authority, Information Technology, Maintenance, Marketing, Economic Development, Edward-Dean Museum, Environmental Planning, Fair & National Date Festival, Foreign Trade, Graffiti Abatement, Parking, Project Management, Purchasing Group, Real Property, Redevelopment Agency, Workforce Development

below. The project will not result in any specific or general exceptions to the use of the categorical exemption as detailed under State CEQA Guidelines Section 15300.2. The project will not cause an impact to an environmental resource of hazardous or critical concern nor would the project include a reasonable possibility of having a significant effect on the environment due to unusual circumstances. The project would not result in impacts to scenic highways, hazardous waste sites, historic resources, or other sensitive natural environments, or have a cumulative effect to the environment. No significant environmental impacts are anticipated to occur with the Revenue Lease Agreement.

- **Section 15301 – Class 1 Existing Facilities Exemption:** This categorical exemption includes the operation, repair, maintenance, leasing, or minor alteration of existing public or private structures or facilities, provided the exemption only involves negligible or no expansion of the previous site's use. The project, as proposed, is limited to a Lease Agreement to use the RUHS Medical Center for food services. The operation of a Café at the RUHS Medical Center was included as part of the RUHS MOB project in which the environmental effects were previously analyzed in an Initial Study and approved as a Mitigated Negative Declaration by the Board on April 18, 2017. The Lease Agreement with Panera, LLC to provide food service would not result in any changes that would cause new environmental effects that would require additional environmental analysis under CEQA. No expansion of public services and facilities would occur as a result of the Revenue Lease Agreement and, therefore, the project is exempt as the project meets the scope and intent of the Class 1 Exemption identified in Section 15301, Article 19, Categorical Exemptions of the CEQA Guidelines.
- **Section 15061 (b) (3) – “Common Sense” Exemption:** In accordance with CEQA, the use of the Common Sense Exemption is based on the “general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.” State CEQA Guidelines, Section 15061(b) (3). The use of this exemption is appropriate if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” *Ibid*. This determination is an issue of fact and if sufficient evidence exists in the record that the activity cannot have a significant effect on the environment, then the exemption applies and no further evaluation under CEQA is required. See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68. The ruling in this case stated that if a project falls within a category exempt by administrative regulation or 'it can be seen with certainty that the activity in question will not have a significant effect on the environment', no further agency evaluation is required. With certainty, there is no possibility that the project may have a significant effect on the environment. The proposed Revenue Lease Agreement, and provision of food services will not result in any direct or indirect physical environmental impacts. The use and operation of the facility will be consistent with the existing planned and approved use and will not create any new environmental impacts to the surrounding area. No alterations and no impacts beyond the approved planned use of the site would occur. Therefore, in no way, would the project as proposed have the potential to cause a significant environmental impact and the project is exempt from further CEQA analysis.

Based upon the identified exemptions above, the County of Riverside, Economic Development Agency hereby concludes that no physical environmental impacts are anticipated to occur and the project as proposed is exempt under CEQA. No further environmental analysis is warranted.

Signed: _____



Date: _____

5/8/19

Mike Sullivan, Senior Environmental Planner
County of Riverside, Economic Development Agency

RIVERSIDE COUNTY CLERK & RECORDER

**AUTHORIZATION
TO BILL
BY JOURNAL VOUCHER**

Project Name: Revenue Lease Agreement with Panera, LLC for Food Services, Riverside University Health System Medical Center Medical Office Building and Pavilion, Moreno Valley

Accounting String: 777550-47220-7200400000-- FM0417200242

DATE: May 8, 2019

AGENCY: Riverside County Economic Development Agency

THIS AUTHORIZES THE COUNTY CLERK & RECORDER TO BILL FOR FILING AND HANDLING FEES FOR THE ACCOMPANYING DOCUMENT(S).

NUMBER OF DOCUMENTS INCLUDED: One (1)

AUTHORIZED BY: Mike Sullivan, Senior Environmental Planner, Economic Development Agency

Signature: 

PRESENTED BY: Steve Gilbert, Deputy Director, Economic Development Agency

-TO BE FILLED IN BY COUNTY CLERK-

ACCEPTED BY: -

DATE: -

RECEIPT # (S) -



Date: September 7, 2017

To: Kiyomi Moore/Josefina Castillo, Office of the County Clerk

From: Mike Sullivan, Senior Environmental Planner, Project Management Office

Subject: **County of Riverside Economic Development Agency Project # FM0417200242**
Revenue Lease Agreement with Panera, LLC for Food Services, Riverside University Health System
Medical Center Medical Office Building and Pavilion, Moreno Valley

The Riverside County's Economic Development Agency's Project Management Office is requesting that you post the attached Notice of Exemption. Attached you will find an authorization to bill by journal voucher for your posting fee.

After posting, please return the document to:

Mail Stop #1330

Attention: Mike Sullivan, Senior Environmental Planner,

Economic Development Agency,

3403 10th Street, Suite 400, Riverside, CA 92501

If you have any questions, please contact Mike Sullivan at 955-8009 or email at msullivan@rivco.org.

Attachment

cc: file



LEASE AGREEMENT

BETWEEN

County of Riverside
(AS Landlord)

AND

PANERA, LLC
(AS Tenant)

JUN 04 2019 3.5

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Exhibit G	Form of Subordination, Non-Disturbance and Attornment Agreement
Exhibit H	Form of Memorandum of Lease

LEASE AGREEMENT

This Lease Agreement ("Lease") is dated this _____, 2019 (the "Effective Date") between the County of Riverside, a political subdivision of the state of California ("Landlord"), with a mailing address of 3403 Tenth Street, Suite 400, Riverside, California 92501 and Panera, LLC, a Delaware limited liability company ("Tenant") with a mailing address of 3630 South Geyer Road, Suite 100, St. Louis, MO 63127.

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon and subject to the terms, covenants, provisions and conditions of this Lease, as follows:

ARTICLE 1 DEFINITIONS AND ATTACHMENTS

Section 1.1 Basic Data. Each reference in this Lease to any of the following subjects shall incorporate the data or definition specified below:

Landlord:	County of Riverside – Economic Development Agency – Real Estate Division
Landlord's Address:	3403 Tenth Street, Suite 400 Riverside, CA 92501
Landlord's Phone Number and email address:	Stephen Gilbert, Deputy Director 951.955.4824 sdgilbert@rivco.org
Tenant:	Panera, LLC
Tenant's Address:	Panera, LLC 3630 South Geyer Road Suite 100 St. Louis, MO 63127 Attention: Lease Accounting with a copy to: Panera, LLC Three Charles River Place 63 Kendrick Street Needham, MA 02494 Attention: Development Counsel Tenant's Phone Number: 314-984-1000
Premises:	Approximately 2,816 square feet of retail space in the "Medical Center Pavilion" as defined below and an additional 607 square feet of retail space to be used as the "grab and go," in the Medical Office Building, with a present street address of 26600 Cactus Avenue, Moreno Valley, California. The foregoing two retail spaces are collectively referred to as the "Premises" all as further shown on Exhibit A, Exhibit A-1 and Exhibit A-2. Tenant will also be allowed, subject to the terms and conditions of this Lease, to exclusively utilize an area, which is also identified on

	Exhibit A and Exhibit A-1, adjacent to the Premises for outdoor cafe seating.
Medical Center:	The land and buildings known as the Medical Center Pavilion and the Medical Office Building, collectively referred to as the "Medical Center" with a street address of 26600 Cactus Avenue, Moreno Valley, California, all as further shown on Exhibit A.
Floor Area of Premises:	Approximately 3,423 square feet of rentable retail area, not including basement, remote storage areas, outdoor café seating or drive-through.
Permitted Use:	The operation of a bakery-cafe restaurant, selling, at retail, for off-Premises and on-Premises consumption, items contained on the menu (as same may evolve) used by substantially all of Tenant's stores in California, including, but not limited to: premium quality breads, bagels, pastries, salads, muffins, cookies, flatbread pizza, pasta, hot and cold nonalcoholic beverages, fresh and frozen yogurt, sandwiches, soups, potato chips and other incidentals; and for the sale at retail of ground coffee, coffee beans, gourmet teas, flour and items used in the home preparation and consumption of coffee, tea and baked goods; for catering the foregoing items; and thereafter for any other lawful purpose, provided Landlord's written consent is first obtained which consent shall not be unreasonably withheld.
Term:	An initial period commencing on the Commencement Date and expiring on the last day of the tenth (10th) Lease Year, subject to extension and earlier termination as hereafter provided.
Term Extension Periods:	Two (2) term extension periods of five (5) years each.
Annual Basic Rental:	
Lease Years 1 through 5:	Fifty thousand (\$50,000.00) dollars annually, paid in equal monthly installments of four thousand one hundred sixty-six and 67/100 (\$4,166.67) dollars per month.
Lease Years 6 through 10:	Fifty-five thousand (\$55,000.00) dollars annually, paid in equal monthly installments of four thousand five hundred eighty-three and 33/100 (\$4,583.33) dollars per month.
Term Extension Period Annual Basic Rental:	
Lease Years 11 through 15:	Sixty thousand five hundred (\$60,500.00) dollars annually, paid in equal monthly installments of five thousand forty-one and 67/100 (\$5,041.67) dollars per month.
Lease Years 16 through 20:	Sixty-six thousand five hundred fifty (\$66,550.00) dollars annually, paid in equal monthly installments of five thousand five hundred forty-five and 83/100 (\$5,545.83) dollars per month.
Percentage Rent:	

Lease Years 1 through 5:	Five (5%) percent over one million five hundred thousand (\$1,500,000.00) dollars of Gross Sales.
Lease Years 6 through 10:	Five (5%) percent over one million five hundred seventy-five thousand (\$1,575,000.00) dollars of Gross Sales.
Lease Years 11 through 15:	Five (5%) percent over one million six hundred fifty-three thousand seven hundred fifty (\$1,653,750.00) dollars of Gross Sales.
Lease Years 16 through 20:	Five (5%) percent over one million seven hundred thirty six thousand four hundred thirty-seven and 50/100 (\$1,736,437.50) dollars of Gross Sales.
Scheduled Plan Submission Dates:	Tenant shall use reasonable efforts to submit preliminary plans to Landlord for its review and approval on or before forty five (45) days after the Effective Date of this Lease.
Scheduled Delivery Date:	September 23, 2019

Section 1.2 Defined Terms. As used herein, the following terms shall have the meanings specified below:

- (a). "Common Areas" means those areas and facilities in the Medical Center existing and as shown on Exhibit A and for the common use of Landlord, tenants and other occupants of the Medical Center and others entitled thereto, their officers, agents and employees, including, without limitation, all truckways, driveways, parking areas, utilities and drainage facilities, loading docks, delivery passages, sidewalks, corridors, landscaped and planted areas, retaining walls, stairways, elevators, rest rooms, and other similar areas, facilities or improvements, if any.
- (b). "Consumer Price Index" means the "Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items (1982-84 = 100)" published by the United States Department of Labor, Bureau of Labor Statistics. If publication of the Consumer Price Index is discontinued, a comparable index or statistics on the purchasing power of the consumer prepared or published by a responsible financial periodical shall be selected by Landlord in substitution therefor.
- (c). "Default Rate" means an annual rate of interest equal to two (2) percentage points over the prime rate published from time to time in the Wall Street Journal. If publication of the Wall Street Journal is discontinued, a comparable commercial lending rate done or published by a responsible financial publication shall be selected by Landlord in substitution therefor.
- (d). "Interest Rate" means the lesser of ten percent (10%) per annum or the highest interest rate allowed by Law.
- (e). "Medical Center" shall mean the Medical Center Pavilion Building and the Medical Office Building
- (f). "Landlord's Work" means the work to be performed by Landlord as described and defined on Exhibit B.

- (g). "Tenant's Work" means the work to be performed by Tenant as described and defined on Exhibit C.
- (h). "Lease Year" shall mean that period commencing on the Commencement Date and ending on the following December 31st (unless such period is less than five (5) months, in which case the first Lease Year shall end on the December 31st of the first full calendar year succeeding the Commencement Date). Thereafter, "Lease Year" shall mean each successive twelve (12) month period during the Term.
- (i). "Normal Business Hours" means those hours and days during which Tenant may elect to be open for business to the public.
- (j). "Percentage Increase" shall mean the percentage by which the Consumer Price Index for the month that is three (3) months prior to the Lease Year for which the calculation is being made, exceeds the Consumer Price Index for the month which is fifteen (15) months prior to the Lease Year for which the calculation is being made; provided, however, that in no event shall such percentage increase exceed three percent (3%) per Lease Year.
- (k). "Percentage Rent" shall mean the amount of Rental paid by Tenant to Landlord pursuant to section 1.1 and section 5.5.
- (l). "Permits" are any and all governmental licenses, approvals, permits and other determinations, required for the completion of Tenant's Work and the conduct of the Permitted Use on the Premises, including, but not limited to, a zoning change, variance, use permit, environmental law compliance, utility connection permit, sign approval, and building permit, all for the operation of a bakery and restaurant as shown on Tenant's plans previously delivered to Landlord. No such license, approval or other determination shall be treated as a Permit under this Lease unless the same shall have been validly issued and all appeal periods applicable to such Permit have expired without the filing of an appeal or, if an appeal has been filed, the determination of the same in favor of the completion of Tenant's Work and the conduct of the Permitted Use.
- (m). "Premises Delivery Date" means the date on which Landlord delivers possession of the Premises to Tenant in Substantially Complete, (as defined in 1.2(k) below) condition including the Substantial Completion of all exterior improvements to the Medical Center described in the plans referenced in Exhibit B. Notwithstanding the foregoing, Tenant shall have the right, but not the obligation, to accept delivery of the Premises prior to the date Landlord's Work is Substantially Complete if Tenant is able to commence Tenant's Work. Tenant's taking of the Premises to commence Tenant's Work shall in no way, however, be deemed to alleviate Landlord from the requirement of completing Landlord's Work in accordance with the terms of Section 8.1 below.
- (n). "Substantially Complete" or "Substantially Completed" means all of Landlord's Work is complete except for minor punch list items, provided such other work will not (1) impede the completion of Tenant's Work or preclude Tenant from obtaining any Permit or governmental approval that it needs to open for business or otherwise operate at the Premises, including without limitation a certificate of occupancy, (2) have a total cost in excess of five percent (5%) of the total costs of Landlord's Work, and (3) take longer than fifteen (15) days to complete.

(o). "Rental" has the meaning set forth in Section 5.1.

(p). "Taxes" has the meaning set-forth in Section 6.2.

(q). "Unamortized Cost of Tenant Improvements" means that portion of all costs of developing and constructing the Premises, including, but not limited to the cost of all leasehold improvements, equipment and such so-called "soft costs" related to the completion of Tenant's Work, including, but not limited to, architectural, engineering, and construction management costs paid for by Tenant and allocable to the Premises (provided such soft costs do not exceed an amount equal to twenty percent (20%) of all other development and construction costs), in accordance with generally accepted accounting principles, which, if amortized on a straight line basis over the Term, have not been recovered by Tenant as of the effective date of the relevant termination notice.

(r). "Unavoidable Delay" has the meaning set forth in Section 19.11.12.

Section 1.3 Attachments. The following documents attached hereto or delivered separately to Tenant, as well as all drawings and documents prepared pursuant thereto, are hereby made a part hereof:

Exhibit A	Site Plan of Medical Center and Location of Premises and Dumpster Location
Exhibit A-1	Plan of Premises, and Outdoor Cafe Seating Area
Exhibit A-2	Plan of Grab and Go Area A-2
Exhibit B	Description of Landlord's Work
Exhibit C	Tenant's Final Construction Drawings
Exhibit D	Form of Declaration of Commencement Date
Exhibit E	Insurance Coverage
Exhibit F	Signage Drawings
Exhibit G	Form of Subordination, Non-Disturbance and Attornment Agreement
Exhibit H	Form of Memorandum of Lease

ARTICLE 2 **PREMISES**

Section 2.1 Demise. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises and hereby grants to Tenant, its customers, guests, invitees, employees, agents and licensees all non-exclusive easements, rights and privileges appurtenant thereto, including the right to use the "Common Areas" as specified more fully below for the Term and at the Rental hereinafter described.

Section 2.2 Landlord's Representation Regarding the Condition of Premises. Landlord warrants and represents to Tenant that as of the Premises Delivery Date, the Premises and the Medical Center, shall be in compliance with all applicable governmental laws, rules and regulations, including, but not limited to, environmental laws and regulations pertaining to hazardous materials, zoning (including, without limitation, as to the use permitted hereunder, and the Americans with Disabilities Act), and that any HVAC, electrical, plumbing or any other systems currently existing in or serving the Premises, shall be in good working order and any HVAC, electrical, plumbing or any other systems to be upgraded, installed in or to serve the Premises by Landlord shall be new and, in either case, shall be of the capacity specified in Exhibit B and that Landlord prior to the Premises Delivery Date shall remove from the Premises and any area in which Tenant's Work may be performed, any hazardous materials or installations, including, without limitation, all asbestos. The foregoing warranty shall not apply to any installation or repair to be undertaken by Tenant in

accordance with the terms of this Lease and Tenant shall be responsible under the Americans with Disabilities Act for all so-called "path of travel requirements" within the Premises. On or before the Premises Delivery Date, Landlord shall deliver to Tenant, if available, a certificate from the local building permit authority confirming that the Premises is free from all asbestos.

Section 2.3 Landlord Providing Information. Landlord has also provided Tenant with any other information concerning the Premises and the Medical Center as Tenant may reasonably request, including, without limitation, any available "as-built" plans describing the Premises and the mechanical systems contained therein.

Section 2.4 Permits. Tenant shall, at its expense, seek to procure any and all Permits and shall, at all times, comply with the requirements of the Permits. Permits shall be obtained from Landlord, County of Riverside Environmental Health, and the city of Moreno Valley Fire Department. Landlord agrees to cooperate with Tenant when required to obtain all Permits. Landlord does not represent or warrant that it will obtain for Tenant (or that Tenant will be able to obtain) any such Permits; provided, however, Landlord warrants and represents to Tenant that Tenant will not be prevented from obtaining (or complying with) any Permits as the result of Landlord's acts or omissions.

ARTICLE 3 **TERM**

Section 3.1 Commencement Date. The Commencement Date shall be within ninety (90) days after substantial completion of Landlord's Work and Tenant's Certificate of Occupancy is issued. Landlord and Tenant hereby agree to execute a Declaration of Commencement Date, in the form attached hereto as Exhibit D, to confirm the Commencement Date, the expiration date and the other matters listed thereon.

Section 3.2 Option To Extend Term. Tenant shall have the right and, the Term hereof shall extend for the successive Term Extension Periods specified in Section 1.1, provided that Tenant has provided written notice to Landlord at least one hundred twenty (120) days prior to the expiration of the initial Term or the Term Extension Period, as the case may be, of Tenant's desire to so extend the Term of this Lease. Notwithstanding the foregoing, Tenant's right to the Term Extension Period will not lapse because of Tenant's failure to exercise any option to extend unless Landlord first will have given Tenant notice that Tenant has failed to exercise such option to extend prior to the period provided above, and Tenant will not have exercised such option to extend within thirty (30)-days following Tenant's receipt of Landlord's notice. In the event that the Term shall be extended as provided hereunder, the Term Extension Periods shall be upon the same terms and conditions as are in effect under this Lease immediately preceding the commencement of such Term Extension Period, except that the Annual Basic Rental due from Tenant shall be increased as provided in Section 1.1 of this Lease. The initial Term and any Term Extension Periods are hereinafter sometimes collectively referred to as the "Term".

Section 3.3 Termination.

- (a) This Lease shall expire on the scheduled expiration as stated in Section 1.1, subject to earlier termination and Term Extension Period(s) as provided for in the Lease.
- (b) In the event Tenant, within one hundred twenty (120) days from filing therefor, is unable, despite its reasonable efforts, to obtain all Permits, Tenant shall have the unilateral right and option to terminate this Lease by written notice to Landlord delivered on or before that date which is twenty (20) days after the expiration of said one hundred twenty (120) day period. In no event shall

“reasonable efforts” require Tenant to file an appeal from the decision by the Zoning Board of Appeal or Planning Board or other appropriate authority denying Tenant’s application for the issuance of a Permit.

(c). If for any reason the Premises Delivery Date has not occurred on or before the Scheduled Delivery Date, Tenant may elect to terminate this Lease at any time after the Scheduled Delivery Date by giving notice of such election to Landlord, provided that Tenant may not exercise said right of termination if prior to Tenant giving such notice, Landlord’s Work has commenced and Landlord is diligently engaged in the completion thereof. Provided Landlord has used all best efforts and due diligence to complete Landlord’s work, Landlord shall have up to an additional ninety (90) days to complete Landlord’s work. Thereafter, in the event Tenant exercises its right to terminate this Lease as provided under the foregoing sentence, Landlord shall reimburse Tenant, on or before that date which is twenty (20) days after receipt of Tenant’s notice of termination, for all of Tenant’s out-of-pocket expenses incurred prior to Tenant’s notice of termination. In the event Tenant shall not so terminate this Lease, then notwithstanding any provision of the Lease to the contrary, no Rental shall be payable for the period commencing upon the Commencement Date and containing twice the number of consecutive days thereafter which equal the number of days between the Scheduled Delivery Date and the Premises Delivery Date.

Section 3.4 Holding Over. Any holding over by Tenant after the expiration of the Term or applicable Term Extension Period with the consent of Landlord shall be on a month-to-month basis, terminable by either party on thirty (30) days’ written notice, and shall be at the same Annual Basic Rental or applicable Term Extension Period Annual Basic Rental specified herein (prorated on a monthly basis), provided the Annual Basic Rental or applicable Term Extension Period Annual Basic Rental shall be increased monthly, rather than annually, by the Percentage Increase (by using the Consumer Price Index effective as of the first day of the calendar month prior to the month for which the calculation is being made) and shall otherwise be on the terms and conditions set forth herein, so far as applicable. In the event Tenant holds over after the expiration of the Term or any Term Extension Periods, the monthly rental shall be increased by one hundred fifty percent (150%).

ARTICLE 4 USE

Section 4.1 Permitted Use. The Premises shall be used for the Permitted Use.

Section 4.2 Exclusive Use. Excepting the existing cafeteria operations, Tenant shall have the exclusive right within the Medical Center for the sale of bagels, baked goods, breads, salads, sandwiches, soups, blended beverages, coffee, and tea. Should the existing cafeteria operator cease to operate the cafeteria or existing “grab and go” (in the hospital building), or if Landlord desires to change the operator of the existing cafeteria operations or grab and go, then Tenant may have the right of first refusal on the same terms and conditions as offered by Landlord, and/or a subsequent operator. Tenant shall have thirty (30) days following written notice and receipt of terms and conditions to exercise such first refusal.

Landlord represents and warrants that, as of the Effective Date, there are no exclusives, restrictions or prohibitions contained in any leases to other tenants of the Medical Center that prohibit Tenant’s Permitted Use or Exclusive Use granted under this Section 4.2.

Section 4.3 No Continuous Operation. At any time after the fifth (5th) year of the Lease Term, Tenant shall have the right upon one hundred eighty (180) days' notice to Landlord, to discontinue to operate the restaurant in Tenant's sole discretion. In the event Tenant discontinues restaurant operations for ninety (90) days or longer, Landlord shall have the option to terminate this lease upon thirty (30) days written notice from Landlord to Tenant.

Section 4.4 No Right of Relocation. Landlord shall have no right to relocate Tenant.

ARTICLE 5 RENTAL

Section 5.1 Rentals Payable; Net Rental. Commencing on the Commencement Date and continuing throughout the Term, and if applicable, Term Extension Period, Tenant agrees to pay to Landlord as rental ("Rental") for the Premises, the following:

- (a) the Annual Basic Rental or Term Extension Period Annual Basic Rental as applicable paid in equal monthly installments;
- (b) as Percentage Rent, the sum paid to Landlord calculated at five (5%) of gross sales in accordance with section 1.1 and paid to Landlord by Tenant referenced in section 5.5; and
- (c) all additional sums, charges or amounts to be paid by Tenant to Landlord under this Lease, ("Additional Rental").

Section 5.2 Annual Basic Rental; Rental During Extension Period. Annual Basic Rental in the amount provided under Section 1.1. shall be payable in equal monthly installments of one-twelfth (1/12th) of such annual sum, in advance, on the first day of each full calendar month during the Term, the first such payment to include also any prorated Annual Basic Rental for the period from the Commencement Date to the first day of the first full calendar month in the Term.

Section 5.3 Delinquent Rental. Tenant shall pay all Rental when due and payable, without any setoff, deduction or prior demand therefor whatsoever (except as otherwise expressly provided herein). If any payment of Rental is not made within ten (10) days after receipt of written notice from Landlord that the same is delinquent there shall be added thereto, as Additional Rental to compensate Landlord for the inconvenience, administrative burden and expense created hereby, an amount equal to three percent (3%) of the amount due, making the total Rental due, including the Additional Rental, one hundred three percent (103%) of the Rental that would otherwise be due. If any Rental is not paid within thirty (30) days after the due date, Tenant shall, in addition to the foregoing late charges, pay interest at the Default Rate on all Rental (but not on late charges) from the date such Rental was originally due until paid. Such late charges and interest on overdue Rental shall be in addition to, and not in limitation of, Landlord's other rights and remedies in the event of such late payment.

Section 5.4 "Gross Sales" Defined. "Gross Sales" means the actual sales price of all products sold by Tenant in, at, from, or arising out of Tenant's use of the Premises, for all operations, including but not limited to Tenant's use in the Medical Center Pavilion, the "grab and go" in the Medical Office Building, and catering, whether for wholesale, retail, cash, credit, or otherwise. Gross Sales shall include receipts from all catering orders, provided such order is prepared at the Premises. Notwithstanding anything to the contrary in the foregoing, the value of gift cards shall be included in Gross Sales when they are redeemed, not when they are sold. Exclusions from "Gross Sales" are as follows: (a) sums collected for any sales, use, luxury or excise tax, or any other tax, collected

from customers by Tenant or any subtenant, licensee or concessionaire, (b) the exchange or transfer of merchandise between stores or warehouses of Tenant, any subtenant, licensee or concessionaire, or their respective affiliates (including any parent, subsidiary or controlling corporation), when such exchange is made solely for the convenient operation of the business of Tenant or such subtenant, licensee, concessionaire or affiliate and not for the purpose of consummating a sale at, in, from or upon the Premises, (c) returns to shippers or manufacturers, wholesalers or distributors, for credit, (d) cash or credit refunds, but only to the extent that the merchandise sold was originally included in Gross Sales, (e) proceeds from sales of fixtures which are not a part of the stock in trade of Tenant or any subtenant, licensee or concessionaire, (f) proceeds of sales made at a discount to employees of Tenant or its affiliates or any subtenant, licensee or concessionaire, provided such proceeds of sales do not exceed an amount equal to two percent (2%) of Gross Sales, (g) proceeds of vending machines and telephones, (h) interest carrying charges or credit card charges or discounts, (i) uncollectible credit accounts and checks, not to exceed one percent (1%) of Gross Sales in any Lease Year, (j) bulk sales of inventory not in the regular course of business, (k) proceeds of sales of gift certificates or similar vouchers, until treated as a sale at the Premises pursuant to Tenant's bookkeeping practices, and (l) sums and credits received in the settlement of claims for losses of or damage to merchandise.

Section 5.5 Statements of Gross Sales. Tenant shall deliver to Landlord: (a) on or before the twentieth (20th) day following each calendar month during the Term (including the twentieth (20th) day of the month following the end of the Term of the Lease) a written statement (in a form reasonably required by Landlord) showing the amount of Gross Sales for such calendar month (including in its first report the amount of Gross Sales of the fractional calendar month, if any, at the commencement of the Term) together with monthly payment to Landlord for Landlord's share of Percentage Rent effective when Gross Sales exceed the applicable annual Gross Sales breakpoint as defined in section 1.1 (Landlord's share is five (5%) of Gross Sales); and (b) within sixty (60) days after the close of each Lease Year and after the termination of the Lease, a statement of Gross Sales for the preceding Lease Year. If Tenant shall fail to deliver such certified annual statement to Landlord within said sixty (60) day period, Landlord, after notice and the expiration of a twenty (20) day cure period, shall have the right to audit at Tenant's corporate offices such books and records, including, without limitation, all records required by Section 5.6, as may be necessary to certify the amount of Tenant's Gross Sales for such Lease Year, and Tenant shall pay to Landlord the reasonable cost of such audit, as Additional Rental, upon demand.

Section 5.6 Tenant's Records. Tenant will keep and preserve for at least three (3) years following each Lease Year, original or duplicate books and records as would ordinarily be examined by an auditor to determine and verify Gross Sales. Tenant's records shall be kept in a single location, either (at Tenant's option) on the Premises or at Tenant's Address specified in Section 1.1, provided that if Tenant's records are not kept on the Premises, at Landlord's written request in connection with an examination or audit as described below, Tenant shall make Tenant's records available at the Premises or such other location as may be mutually agreeable. Upon five (5) business days' notice to Tenant, given not more than once during any Lease Year, Landlord, their agents or accountants, shall have the right during business hours to make any examination or audit of Tenant's records which Landlord may reasonably desire. If such audit shall disclose a liability in any Lease Year for Percentage Rental in excess of the Percentage Rental previously paid for such Lease Year, Tenant shall promptly pay such liability. Should any such liability for Percentage Rental equal or exceed five percent (5%) of the Percentage Rental previously paid for such Lease Year, Tenant shall, in addition, promptly pay the cost of audit and interest at the Default Rate on all additional Percentage Rental then payable, accruing from the date such additional Percentage Rental should have been paid. Landlord agrees that all information gained from Tenant's records, financial statements, inspections or audits furnished to or conducted by or on behalf of Landlord shall be confidential.

ARTICLE 6
TAXES

Section 6.1 Tenant to Pay Proportionate Share of Taxes. Notwithstanding anything to the contrary contained in this Lease, Landlord and Tenant hereby agree that "Taxes" as defined below, shall be included in the Rental and the responsibility for the payment of all real estate taxes shall be upon Landlord and Landlord agrees to pay the same as required by law, and in any event, so as to assure that Tenant's right to occupy the Premises and use the Common Areas shall not be disturbed or threatened.

Section 6.2 Taxes Defined. The term "Taxes" shall mean all real estate taxes, ad valorem taxes and assessments, possessory interest tax, general and special assessments, user fees (including, for example, without limitation, any fire user or similar fee), taxes on real estate rental receipts, or any other tax imposed upon or levied against real estate or upon owners of real estate as such rather than persons generally with respect to all land, buildings and other improvements on the Medical Center together with the reasonable costs (including reasonable fees of attorneys, consultants, and appraisers) of any negotiation, contest, or appeal pursued by Landlord in an effort to reduce the same. Tenant will be responsible for all taxes associated with Tenant's personal property on the Premises.

ARTICLE 7
COMMON AREAS

Section 7.1 Use of Common Areas. Landlord grants to Tenant and its agents, employees and (where such areas are open to the public) its customers, a non-exclusive easement to use in common with others entitled thereto during the Term, the Common Areas.

Section 7.2 Management and Operation of Common Areas. Landlord will operate and maintain or will cause to be operated and maintained the Common Areas in a first-class, clean and safe condition consistent with comparable first-class retail centers and in the best interests of the Medical Center. Landlord will have the right to establish, modify and enforce reasonable rules and regulations with respect to the Common Areas, provided the same are uniformly applied and do not materially affect Tenant's rights hereunder.

Section 7.3 Tenant to Pay Proportionate Share of Common Area Expenses. Notwithstanding anything to the contrary contained in this Lease, Landlord and Tenant hereby agree that all expenses related to the management of the Common Areas shall be included in the Rental and Landlord shall be responsible for the payment of expenses relating to the Common Areas as specified above.

Section 7.4 "Common Area Expenses" Defined. The term "Common Area Expenses" means the costs and expenses incurred by Landlord in operating and maintaining the Common Areas in a first-class, clean and safe condition consistent with comparable first-class medical centers and in the best interests of the Medical Center. Common Area Expenses shall include all reasonable and necessary costs and expenses of operating, maintaining, repairing, lighting, signing, cleaning and providing security for the retail portions of the Common Areas; maintenance of sprinkler, electrical, plumbing and mechanical systems solely serving the Common Areas, removal of snow, ice, trash and debris, costs and expenses of inspecting and depreciation of machinery and equipment used solely in the operation and maintenance of the Common Areas, cost and expense of repair of curbs, walkways,

landscaping, pipes, ducts, conduits and lighting facilities; costs of providing energy to light, heat, ventilate and air-condition the Common Areas as well as the operating expenses related to the Premises, including access to the Medical Center's HVAC 24/7 365 days per year at temperature and rates sufficient to meet Tenant's needs; the premium cost of Landlord's insurance as required under Section 13.3; costs and expenses of personnel providing services solely in connection with the operation, maintenance, repairing, cleaning and protection of the Common Areas (including amounts incurred for wages, salaries and other compensation for services, payroll, social security, unemployment and similar taxes, workmen's compensation insurance, disability benefits, pensions, hospitalization, retirement plans and group insurance, uniforms, tools and equipment used by such personnel).

Section 7.5 Estimates of Common Area Expenses; Increases in Common Area Expenses. The Common Area Expenses are included in the Rental.

ARTICLE 8 IMPROVEMENTS

Section 8.1 Landlord's Work. Subject to Unavoidable Delay, Landlord will promptly and at its sole cost and expense, complete the work, to be performed by Landlord, as defined in Exhibit B Landlord's Work necessary to permit Tenant to commence Tenant's Work identified under Exhibit C. Landlord shall cause Landlord's Work to be Substantially Complete before the Scheduled Delivery Date specified in Section 1.1, above. Landlord hereby warrants and guarantees Landlord's Work to be free from defects in workmanship and materials for a period of one (1) year from the Commencement Date. Upon the expiration of said one (1) year period, Landlord shall assign to Tenant all warranties and guarantees with respect to Landlord's Work and, to the extent any such warranties and guarantees are not assignable, Landlord agrees to enforce the same for the benefit of Tenant. Landlord shall promptly (i) repair any latent defects in Landlord's Work and (ii) repair any so-called punch-list items about which Tenant notifies Landlord within sixty (60) days of the Commencement Date. Landlord's Work shall be performed in a good and workmanlike manner, using first quality new materials, and the Premises shall be delivered free of all liens and encumbrances and in compliance with all applicable laws and codes. Notwithstanding anything to the contrary contained herein, Landlord shall be liable to repair (a) latent defects, and (b) defects in Landlord's Work, notice of which, is delivered to Landlord within one (1) year of the Commencement Date.

Section 8.2 Tenant's Work. Tenant will be permitted by Landlord to enter the Premises for the purpose of performing Tenant's Work and for the purpose of installing its millwork, fixtures and other equipment, provided (i) Tenant shall have obtained Landlord's written approval of the Final Plans, and (ii) Tenant shall have deposited with Landlord the certificates of insurance required in Sections 13.1. and 13.2. Tenant shall, at its expense, remove from the Premises and from the Medical Center all trash which may accumulate in connection with Tenant's activities and, should Tenant fail to do so, Landlord may, in addition to any other right or remedy of Landlord, remove such trash following written notice to Tenant, at Tenant's expense, and the reasonable expenses so incurred by Landlord shall be due and payable by Tenant as Additional Rental, upon demand. All improvements to the Premises made or performed by Tenant shall be the property of Tenant throughout the Term. Upon the expiration of the Term or earlier termination of this Lease, all improvements to the Premises, not including any Trade Fixtures, equipment or other removable personal property, shall be Landlord's property and shall be surrendered to Landlord.

Section 8.3 Mechanic's Liens. In the event any mechanic's or other lien shall at any time be filed against the Premises by reason of work, labor, services or materials performed or furnished, or

alleged to be performed or furnished, to Tenant or to any one holding the Premises through or under Tenant, Tenant, within thirty (30) days of filing, shall cause the same to be discharged of record or bonded. If Tenant shall fail to cause such lien to be so discharged or bonded after being notified of the filing thereof, then, in addition to any other right or remedy of Landlord, Landlord may discharge the same by paying the amount claimed to be due or may cause the same to be bonded, and the amount so paid by Landlord, including reasonable attorney fees incurred by Landlord in either defending against such lien or procuring the discharge or bonding of such lien, shall be due and payable by Tenant to Landlord, as Additional Rental, upon demand.

Section 8.4 Tenant's Trade Fixtures. All furniture, fixtures and equipment, inventory, personal property and apparatus owned by Tenant and installed in the Premises other than HVAC or other building systems ("Trade Fixtures") shall remain the property of Tenant and shall be removable at any time, including upon the expiration of the Term; and provided further that Tenant shall repair any damage to the Premises caused by the removal of said fixtures. In the event Tenant, its subtenants or assigns acquires or leases personal property to be installed and used upon the Property subject to retain title, conditional sale contract, chattel mortgage or other security agreement or lease, Landlord agrees to execute and deliver to any such secured creditor a waiver of any lien Landlord may have upon such personal property. Such waiver will be on a form provided by Tenant authorizing the secured creditor to enter upon the Property and remove such personal property in the event of default under the terms of the security agreement or lease.

Section 8.5 Landlord's Construction Plans. Landlord shall deliver to Tenant final construction drawings describing Landlord's Work, which plans have incorporated Tenant's plans, on or before the Effective Date, which final construction plans shall include floor plans, exterior elevations and a full size, scaled, and engineered site plan ("Landlord's Construction Plans"). The Premises as shown on Landlord's construction drawings shall be located in relation to the existing Medical Center approximately as shown on Exhibit A, Exhibit A-1 and Exhibit A-2.

Section 8.6 Tenant's Construction Plans. Tenant shall submit Tenant's Final Construction Drawings for Tenant's initial renovation, improvements, and/or alterations to Landlord for Landlord's approval. Landlord further acknowledges that it is familiar with Tenant's prototypical store front and exterior elevation and will permit Tenant to construct its restaurant in a manner consistent with its prototypical unit. In the event Landlord fails to review Tenant's Final Construction Drawings within ten (10) days after receipt thereof, Tenant's Final Construction Drawings shall be deemed approved; this provision shall also apply to any subsequent submissions by Tenant. In the event of any discrepancy between the provisions of this Lease (including the Exhibits) and Tenant's Final Construction Drawings provided to Landlord by Tenant, the Tenant's Final Construction Drawings shall control.

ARTICLE 9 **OPERATIONS**

Section 9.1 Operations by Tenant.

- (a) With regard to the use and occupancy of the Premises and Medical Center, Tenant will at its expense: (i) keep the inside and outside of all glass in the doors and windows of the Premises clean; (ii) keep all exterior store surfaces of the Premises clean; (iii) replace promptly any cracked or broken glass of the Premises with glass of like kind and quality; (iv) maintain the Premises in a clean, orderly, sanitary and attractive condition and free of insects, rodents, vermin and other pests; (v) keep any garbage, trash, rubbish or other refuse in vermin-proof containers within the interior of the Premises until removed; (vi) have such garbage, trash,

rubbish and refuse removed on a daily basis; (vii) keep all mechanical apparatus free of unreasonable vibration and noise which may be transmitted beyond the Premises; and (viii) comply with all laws, ordinances, rules and regulations of governmental authorities now or hereafter in force and with any lawful direction of any public officer and with the rules and regulations of Landlord's fire insurance rating organization now or hereafter in effect, in each case applicable to or relating to the specific use, condition or occupancy of the Premises resulting from Tenant's use of the Premises. The foregoing notwithstanding, Landlord represents that as of the Premises Delivery Date, the exterior glass in the Premises shall be unbroken and free of cracks, including, so-called "bull's-eye" breaks.

- (b). In regard to the use and occupancy of the Premises and Medical Center, Tenant will not: (i) use or permit the use of any objectionable advertising medium such as, without limitation, loudspeakers, phonographs, public address systems or sound amplifiers audible or visible outside of the Premises; (ii) permit undue accumulations of garbage, trash, rubbish or other refuse within or without the Premises; (iii) cause or permit objectionable odors to emanate or to be dispelled from the Premises (provided, however, Landlord agrees that customary bakery-cafe and restaurant odors will not be deemed "objectionable"); (iv), with the exception of the outdoor cafe seating area, solicit business in the Common Areas; (v) distribute handbills or other advertising matter in the Common Areas; (vi) commit, or suffer to be committed, any waste upon the Premises or any public or private nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant or occupant of the Medical Center, or use or permit the use of any portion of the Premises for any unlawful purpose or for activity of a type which is not generally considered appropriate for first class retail centers conducted in accordance with good and generally accepted standards of operation. Notwithstanding the foregoing or any other provision of this Lease, however, Tenant shall not be responsible for compliance with any such laws, regulations, or the like requiring (vii) structural repair or modifications or (viii) repairs or modifications to the utility or center service equipment located outside of or not exclusively serving the Premises or (ix) installations of new Medical Center service equipment, such as fire detection or suppression equipment, unless such repairs, modifications, or installations (a) are due to Tenant's Work, alterations, or repairs in the Premises or Tenant's particular manner of use of the Premises (as opposed to retail store operations, generally), or (b) are due to the negligence or willful misconduct of Tenant or any agent, employee, or contractor of Tenant.

Section 9.2 Signage. Tenant shall not have the right to place or suffer to be placed or maintained on the exterior of the Premises any sign, awning, advertising matter or any other thing of any kind unless first approved by Landlord. Tenant shall obtain all necessary Permits for such exterior sign, awning, and advertising matter and it shall be professionally prepared and similar to that signage used by substantially all of Tenant's other restaurants. Landlord shall not have the right to approve menu or pricing signage or such other interior signage. Tenant will, at its sole cost and expense, maintain such sign, decoration, lettering, advertising matter, or other thing as may be permitted hereunder in good condition and repair at all times. Landlord's approval of signage as required herein shall not be unreasonably withheld, delayed or conditioned. The foregoing notwithstanding, it shall be unreasonable for Landlord to disapprove professionally prepared, lawfully permitted exterior signage and awnings consistent with (i) Tenant's standard promotional signage or (ii) Tenant's current store signage used at Tenant's other store locations. Notwithstanding anything to the contrary set forth herein, Landlord hereby approves Tenant's proposed signage drawings attached hereto as Exhibit F.

Section 9.3 Hazardous Materials. Without limiting the generality of their other covenants hereunder, Tenant agrees in regard to the use and occupancy of the Premises, and Landlord agrees

in regard to the remainder of the Medical Center, to comply with all environmental laws, rules, regulations, statutes and ordinances, including, without limitation, those applicable to "Hazardous Materials". Landlord warrants and represents to Tenant that as of the Effective Date, the Premises is in strict compliance with all environmental requirements and there are no Hazardous Materials located on or under the Premises.

Tenant unconditionally, absolutely and irrevocably indemnifies and agrees to defend and hold harmless Landlord and its officers, employees, agents, contractors and those claiming by, through or under Landlord, from and against all loss, cost and expense (including, without limitation, attorney's fees) of whatever nature suffered or incurred by Landlord on account of the breach by Tenant of its agreement in the first sentence of this Section 9.3 with regard to the release of Hazardous Materials by Tenant. Landlord unconditionally, absolutely and irrevocably indemnifies and agrees to defend and hold harmless Tenant and its officers, employees, agents, contractors and those claiming by, through or under Tenant, from and against all loss, cost and expense (including, without limitation, attorney's fees) of whatever nature suffered or incurred by Tenant on account of the breach by Landlord of its agreements, warranties and representations of this Section 9.3. Notwithstanding any other term or condition of this Lease, Landlord agrees that wastes or materials such as cleaning products in quantities and concentrations customarily found in food service establishments similar to Tenant's which do not damage the drainage system of the Medical Center or the Premises, shall not be deemed to be unusual or objectionable.

As used herein, "Hazardous Materials" shall mean any hazardous, toxic or radioactive substance, material, matter or waste which is or becomes regulated by any federal, state or local law, ordinance, order, rule, regulation, code or any other governmental restriction or requirement, and shall include asbestos, petroleum products and the terms "Hazardous Substance" and "Hazardous Waste" as defined in the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; and those substances defined as "Hazardous Wastes" in section 25117 of the California Health and Safety Code or as "Hazardous Substances" in section 25316 of the California Health and Safety Code; and in the regulations adopted in publications promulgated pursuant to said laws.

ARTICLE 10

REPAIRS AND ALTERATIONS

Section 10.1 Repairs To Be Made By Landlord. Landlord's sole repair obligations with respect to the Premises and the Medical Center are, at its expense, (i) to keep in good order, condition and repair all Common Areas, common utility systems, Medical Center service equipment located outside of or not exclusively serving the Premises including, without limitation, lighting for the parking areas of the Medical Center, the load-bearing walls, structural columns, structural floor and structural ceiling of the Medical Center, the Premises storefront (excluding, however, all doors, door frames, windows and glass, repairs to which are the responsibility of Tenant) and the roof over the Medical Center and HVAC, and iii) to make all other repairs necessitated by the acts or omissions of Landlord, its agents, employees or contractors or the failure of Landlord to perform its obligations hereunder; provided Tenant shall give Landlord notice of the necessity for such repairs with respect to the Premises and provided that the necessity for such repairs shall not arise from nor be caused by the negligence or willful acts of Tenant, its agents, concessionaires, officers, employees, licensees or contractors. In the event that Landlord fails to make the repairs it is obligated to, Tenant will be permitted to make said repairs and off-set said cost from Rental payments.

Section 10.2 Repairs To Be Made By Tenant. All repairs to the Premises or any installations, equipment or facilities therein, other than those repairs required to be made by Landlord pursuant to Section 10.1. hereof or Article 14 hereof, or those required as the result of the negligence or willful acts of Landlord, its agents, employees, or contractors, shall be made by Tenant at its expense. Tenant shall maintain and repair all of Tenant's Furniture, Fixtures, and Equipment and millwork. In addition. Tenant will keep the interior of the Premises, and equipment including but not limited to all electrical, plumbing and other mechanical systems located within, and exclusively serving the Premises (other than items to be repaired by Landlord pursuant to Section 10.1. hereof), and all plate glass windows, in good order, condition and repair and will make all replacements thereto from time to time required at its expense; and will surrender the Premises at the expiration of the Term or at such other time as it may vacate the Premises in as good condition as when received, excepting only ordinary wear and tear, damage by Casualty and any damage caused by the failure of Landlord to perform its obligations under Section 10.1.

Section 10.3 Damage to the Premises. Tenant will repair promptly, at its expense, any damage to the Premises and, upon demand, shall reimburse Landlord, as Additional Rental, for the cost of the repair of any damage elsewhere in the Medical Center caused by bringing into the Premises any property for Tenant's use, or by the installation or removal of such property, regardless of fault or by whom such damage shall be caused (unless caused by Landlord, its agents, employees, or contractors); and in default of such repairs by Tenant, at the expiration of five (5) days after notice to Tenant, Landlord may exercise its self-help rights provided in Section 19.9.

Section 10.4 Alterations by Tenant. Tenant will not make any structural alterations, renovations, improvements or other installations in, on, or to the Premises or any part thereof (including, without limitation, any alterations of the storefront or any cutting or drilling into any structural element of the Medical Center) until Tenant shall have received Landlord's written approval, which approval Landlord agrees shall not be unreasonably withheld, delayed or conditioned. Tenant may, without Landlord's consent, make non-structural, interior, remodeling or refurbishing alterations which (a) do not affect the storefront or Medical Center systems; (b) are in compliance with all applicable codes rules, and regulations; and (c) are made at Tenant's sole expense.

Section 10.5 Changes and Additions to the Medical Center.

(a). Landlord reserves the right at any time and from time to time, without the same constituting breach of Landlord's covenant of quiet enjoyment (express or implied) or an actual or constructive eviction, and without incurring any liability to Tenant or otherwise affecting Tenant's obligations under this Lease: (i) to make such changes, alterations, improvements, repairs or replacements in or to the Medical Center (including the Common Areas) and the fixtures and equipment thereof, and in or to the land on which the Medical Center is located, or properties adjacent thereto, as Landlord may deem necessary or desirable in connection with the remodeling, reconstruction, redevelopment, redesigning or expansion of the Medical Center or otherwise, and in connection, therewith, to change (provided there is no material adverse effect upon the Premises, as specifically provided below) the arrangement and/or location of entrances or passageways, doors and doorways, access ramps, corridors, elevators or other public parts of the Medical Center, the Common Areas of the Medical Center; (ii) to make additions, alterations, and modifications to and rearrangements and reductions of the Medical Center, including the Common Areas; (iii) to convert Common Areas into leasable areas; and (iv) to expand the size of the Medical Center by acquiring or making available additional land or space and constructing additions thereon.

(b). Landlord's right to make or cause to be made additions, alterations, modifications or other

changes to the Medical Center or Common Areas as described in subsection (a) above (hereinafter collectively referred to as "Landlord's Alterations") shall be subject to the following conditions and restrictions: (i) Landlord's Alterations shall not materially or adversely interfere with the visibility of the Premises from the Common Areas and adjacent public and private rights of way; (ii) Landlord's Alterations shall not materially or adversely alter the traffic flow to the Premises, including the right of ingress and egress by Tenant's employees, customers, agents, invitees or licensees; and (iii) Tenant's service door, if any, shall not be obstructed, nor shall Tenant's right of ingress and egress through such door be impaired; and (iv) Landlord's Alterations shall not materially reduce the quantity or change the proximity of the parking relative to the Premises. In addition to all other remedies of Tenant, in the event of violation of the condition and restrictions from subparagraph 10.5 (b) (i)-(iv) above all Rental obligations and other charges shall reasonably be abated until such interference has fully abated.

- (c). Tenant agrees that Landlord shall have the right to place in the Premises (but in such manner as not unreasonably to interfere with Tenant's use of the Premises) utility lines telecommunication lines, shafts, pipes and the like, for the use and benefit of Landlord and other tenants and occupants of the Medical Center, and to replace and maintain and repair such lines (provided such work does not unreasonably interfere with Tenant's use of its Premises), shafts, pipes and the like, in, over and upon the Premises; Landlord shall use all reasonable efforts to place any such lines, shafts, pipes and the like above the finished ceiling, within columns or risers, or otherwise not visible within the usable area of the Premises. Such lines, shafts, pipes and the like, shall not be deemed part of the Premises under this Lease. Tenant shall have no rights with respect to the land or improvements below the floor slab, above the interior surface of the ceiling of the Premises, or air rights above the Premises.

Section 10.6 Roof and Walls. Except for the antennae permitted under Section 19.17, Landlord shall have the exclusive right to use all or any part of the roof and walls of the Medical Center and the air rights above the roof for any purpose, provided Tenant's operations are not disrupted thereby.

ARTICLE 11 **UTILITIES**

Section 11.1 Water, Electricity, Telephone, and Natural Gas and Other Utilities. Landlord will provide at points in or adjacent to, the Premises and as specified in Tenant's Final Construction Drawings the facilities described in Exhibit B to enable Tenant to obtain water, electricity, telephone, cable TV, internet, phone lines, alarm monitoring, HVAC, and natural gas for the Premises. Landlord shall be solely responsible for the payment of any imposition charged by applicable governmental jurisdictions or utility providers which are commonly referred to under one of the following names, which list is included for illustrative purposes only and is not intended to be exhaustive: connection charges, availability fees, tie-in fees, meter fees or charges, "tap-in" or tap fees or impact charges and any similar imposition charged by applicable governmental jurisdiction or utility provider associated with development and Tenant's use of the Premises. Electrical utilities shall be separately metered with the installation of said meters to be at Landlord's expense. Without limitation of the foregoing, Tenant acknowledges that the lighting of Tenant's signs on or at the Premises, including, without limitation the lighting under Tenant's storefront canopy, and all electricity serving the outdoor cafe seating area, if any, will be connected to Tenant's electrical meter. Notwithstanding the foregoing, Landlord shall set up utility accounts for the Premises and pay for all utilities used by Tenant at the Premises at Landlord's sole cost and expense and in consideration of the Rental.

Section 11.2 Trash and Garbage Removal. Landlord shall provide an adequately screened trash dumpster or compactor area to be located as depicted on **Exhibit A** within thirty (30') feet of the rear

or service entrance of the Premises. Said dumpster area shall be adequately sized to meet Tenant's needs and shall not be relocated except with Tenant's prior written approval. Tenant shall be solely responsible for trash and garbage removal from the Premises, including the placing of all trash and garbage in containers. The cost of trash removal shall be included in the Rental.

Section 11.3 Cleaning Services. Tenant shall, at its expense, provide the Premises (including, without limitation, exterior plate glass, exterior doors and framing, exterior walls, exterior signs, the sidewalks immediately adjacent to the Premises and the outdoor cafe seating area, if any, and the service entrance) with those janitorial, window cleaning, pest and vermin control, repainting and other services required to maintain the Premises in a clean, sanitary, safe, and attractive condition in accordance with the standards of comparable retail establishments, but in any event, not less than the reasonable standards established by Landlord for the Common Areas.

Section 11.4 Discontinuance and Interruptions of Services. Except as otherwise expressly provided herein Landlord shall not be liable to Tenant for damages or otherwise (a) if any utility shall become unavailable from any public utility company, public authority or any other person or entity supplying or distributing such utility, or (b) for any interruption in any service hereunder (including, without limitation, any heating, ventilation or air-conditioning) caused by the making of any necessary repairs or improvements or by any cause beyond Landlord's reasonable control, and the same shall not constitute a termination of this Lease or an eviction of Tenant. In no event shall Landlord be liable to Tenant for indirect or consequential damages. The foregoing notwithstanding, in the event Tenant is unable to operate its business from a part or all of the Premises due to the interruption of any utilities and services Landlord is required to provide hereunder due to Landlord's negligence or the negligence of Landlord's employees, agents, servants or contractors and Tenant shall not be in default beyond applicable notice and cure periods, Tenant shall receive a proportionate abatement of Annual Basic Rental for that period of time commencing upon the second (2nd) consecutive business day upon which Tenant is unable to operate its business from the Premises and extending through the day prior to the day Tenant may reopen the Premises.

ARTICLE 12 INDEMNITY

Section 12.1 Tenant's Indemnity. To the maximum extent permitted by law, in each case to the extent the same are related, directly or indirectly, to the Premises or Tenant's use thereof and excluding any claims, expenses or liability arising from the negligence or intentional acts or omission of Landlord, its employees, agents or contractors, Tenant shall indemnify and save harmless Landlord, Landlord's directors, officers, agents and employees of Landlord from and against any claims, demands, liabilities, fines, suits, actions, proceedings, orders, decrees, judgments, losses, damages, costs and expenses (including, without limitation, reasonable attorney's fees and or rent abatement of other tenants) or liability of whatever nature: (a) arising from any default, act, omission or negligence of Tenant, or Tenant's contractors, licensees, agents or employees, or the failure of Tenant or such persons to comply with any rule, order, regulation or lawful direction now or hereafter in force of any public authority, or (b) arising, directly or indirectly, from any accident, injury or damage, however caused, to any person including employees of Tenant or property on or about the Premises; or (c) arising, directly or indirectly, out of default by Tenant under any of the terms or covenants of this Lease. This indemnity and hold harmless agreement shall include indemnity against all expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel acceptable to Landlord or counsel selected by an insurance company which has accepted liability for any such claim.

Section 12.2 Landlord's Indemnity. Landlord shall, and hereby does, protect, defend, save, indemnify and forever hold harmless Tenant, along with Tenant's affiliates and the officers, directors, employees and agents of each, from and against any and all claims, demands, liabilities, fines, suits, actions, proceedings, orders, decrees, judgments, losses, damages, costs and expenses, including, without limitation, reasonable attorney's fees) arising out of or occurring in connection with any negligent or intentional acts or omissions of Landlord (or any of its agents, employees, licensees, or contractors) or any breach by Landlord (or any of its agents, employees, licensees or contractors) of any of Landlord's duties, representations, warranties or covenants under this Lease. This indemnity and hold harmless agreement shall include indemnity against all expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel acceptable to Tenant or counsel selected by an insurance company which has accepted liability for any such claim.

Section 12.3 Landlord Not Responsible for Acts of Others. Except to the extent any such loss or damage results from the negligence or intentional acts or omissions of Landlord, its agents, employees, licensees or contractors, Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage which may be occasioned by or through the acts or omissions of persons occupying space adjoining the Premises or any other part of the Medical Center, or, to the maximum extent permitted by law, for any loss or damage resulting to Tenant, or those claiming by, through or under Tenant, or its or their property, from the breaking, bursting, stoppage or leaking of electrical cable and wires, and water, gas, sewer or steam pipes.

ARTICLE 13

INSURANCE

Section 13.1 Tenant's Insurance. At all times after the execution of this Lease, Tenant will take out and keep in force, at its expense the following insurance coverage with the limits as listed on Exhibit E:

- (a). commercial general liability insurance, written on an occurrence basis and including contractual liability coverage to cover any liabilities assumed under this Lease, and coverage against all claims for injury to or death of persons or damage to property on or about the Premises;
- (b). "all-risk" property insurance, written at replacement cost value and with replacement cost endorsement, covering all of Tenant's personal property in the Premises including, without limitation, inventory, Trade Fixtures, floor coverings, furniture and other property removable by Tenant under the provisions of this Lease, as well as Tenant's improvements and betterments;
- (c). if and to the extent required by law, worker's compensation employee liability or similar insurance in form and amounts required by law; and
- (d). automobile liability insurance.

Section 13.2 Tenant's Contractor's Insurance. Tenant shall require any contractor of Tenant performing work on the Premises to take out and keep in force, at no expense to Landlord the following insurance coverage with the limits as listed in Exhibit E.

- (a). commercial general liability insurance, including contractor's liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement and contractor's protective liability coverage, to afford protection to the limit of not less than the

limits as listed on Exhibit E.

(b). worker's compensation and employer's liability or similar insurance in form and amounts required by law.

(c). automobile liability insurance.

Section 13.3 Landlord's Insurance. At all times during the Term, Landlord will maintain in force all-risk casualty insurance insuring the Medical Center, for the full insurable value thereof with such commercially reasonable deductibles as Landlord deems advisable. In addition, Landlord will maintain in force during the entire Term of this Lease comprehensive general liability insurance, including, without limitation, contractual liability coverage and a broad form property damage endorsement with commercially reasonable limits for similarly situated centers.

It is understood and agreed by both parties that the Landlord, is a self-insured public entity for purposes of addressing all lines of insurance coverage required in this agreement.

Section 13.4 Policy Requirements. The company or companies writing any insurance which Tenant, Tenant's contractors or Landlord is required to take out and maintain or cause to be taken out or maintained pursuant to Sections 13.1.4, 13.2, and 13.3 hereof, shall be with a company or companies licensed to do business in the state in which the Premises are located. Tenant shall be the insured on its policies (except worker compensation and employer's liability) and an additional insured on contractor's policies. Landlord shall be an additional insured on Tenant's and Tenant's contractor's liability policies as their respective interests appears. Each such policy shall also contain a provision by which the insurer agrees that such policy shall not be canceled except after thirty (30) days' written notice to the additional insured. A certificate of each such policy, shall be deposited with Landlord by Tenant promptly upon commencement of Tenant's obligation or Tenant's contractors to procure the same. If Tenant shall fail to perform any of its obligations under Sections 13.1. or 13.2, then in addition to any other right or remedy of Landlord, Landlord may perform the same and the cost thereof shall be deemed Additional Rental and shall be payable upon Landlord's demand. Tenant shall maintain not less than \$1,000,000 Fire Legal liability on all real property being leased, including improvements and betterments owned by the Landlord, and shall name the Landlord as a loss payee. Tenant shall also provide fire insurance on all personal property contained within or on the Premises. The policy must be written on an "all risks" basis, excluding earthquake and flood. The contract shall insure for not less than ninety (90) percent of the actual cash value of the personal property, and Tenant shall name Landlord as an additional insured.

ARTICLE 14

DAMAGE AND DESTRUCTION

Section 14.1 Partial Damage to the Premises. If during the Term there shall be partial damage to the Premises by fire, the elements, accident or other casualty (any such causes are referred to herein as a "Casualty") Landlord shall promptly proceed to restore the Premises to substantially the condition in which it was immediately prior to the occurrence of such damage, provided however, that any such Casualty to the Premises was not caused by the negligence of Tenant. In the event of Tenant's negligence, such damage caused to the Premises shall be promptly restored by the Tenant to substantially the condition in which the Premises were immediately prior to the occurrence.

Section 14.2 Landlord's and Tenant's Option to Terminate Lease.

- (a). Notwithstanding the provisions of Sections 14.1 and 14.3 if (i) the area occupied by other retail tenants is damaged to the extent of sixty percent (60%) or more of the Gross Leasable Area, or (ii) other portions of the Medical Center are damaged to the extent that, in the commercially reasonable judgment of Landlord, restoration of the Medical Center and its continued operation could be uneconomical and the Medical Center will be demolished and not restored, Landlord or Tenant may elect to terminate this Lease by giving to the other party notice of such election within thirty (30) days after the occurrence of such event. If such notice is given, the rights and obligations of the parties shall cease as of the date of such notice, and Rental (other than any Additional Rental due Landlord by reason of Tenant's failure to perform any of its obligations hereunder) shall be adjusted as of the date of such termination. Landlord shall not have the right to terminate this Lease unless all other leases of retail tenants are simultaneously terminated.
- (b). In the event of any Casualty or condemnation which is not or cannot be repaired or restored by Landlord for any reason within one hundred eighty (180) days following the occurrence of such Casualty or condemnation, Tenant shall have the right to terminate this Lease on thirty (30) days' notice to Landlord upon the earlier to occur of: (a) the date on which it becomes apparent that such repairs or restoration cannot be completed within such one hundred eighty (180) day period; or (b) upon the expiration of such one hundred eighty (180) day period, if such repairs or restoration have not been substantially completed by such date, provided that such notice is given not later than thirty (30) days after the expiration of said one hundred eighty (180) day period.
- (c). In the event that the Premises are substantially damaged or destroyed by Casualty or eminent domain during the last twenty-four (24) months of the Lease, Tenant may terminate this Lease upon written notice to Landlord.

Section 14.3 Abatement of Rental. If during the Term the Premises or the Medical Center shall be damaged by Casualty, and if such damage shall materially interfere with Tenant's use of the Premises as contemplated by this Lease, a just proportion of the Annual Basic Rental and other charges payable by Tenant hereunder shall abate proportionately for the period ending the earlier of (i) Tenant's reopening for business and (ii) one hundred twenty (120) days after Landlord shall have completed its restoration work and provided further that the term of this Lease then in effect shall be extended for a period equal to the period of rent abatement.

Section 14.4 Miscellaneous. Landlord shall be excused from the obligation to make any repairs or perform any restoration work under this Article 14 to the extent prevented from doing so by reason of any cause beyond its reasonable control, including without limitation, the requirements of any applicable laws, codes, ordinances, rules or regulations. Landlord shall not be liable for interruption to Tenant's business or for damage to or replacement or repair of Tenant's personal property (including without limitation, inventory, Trade Fixtures, floor covering, furniture and other property removable by Tenant under the provisions of this Lease), such replacement or repair to be undertaken and completed by Tenant at its expense. In no event shall Landlord be liable to Tenant for indirect or consequential damages under any other provision of this Lease.

ARTICLE 15 **CONDEMNATION**

Section 15.1 Rights of Termination for Taking. If the Premises and/or the Common Area of the Medical Center, or such portion thereof as to render the balance reasonably unsuitable for Tenant's purposes, shall be taken by condemnation or right of eminent domain (including a temporary taking in excess of one hundred eighty (180) calendar days), Landlord or Tenant shall have the right to

terminate this Lease by written notice to the other of its desire to do so, provided that such notice is given not later than thirty (30) days after Tenant has been deprived of possession. Further, if so much of the Medical Center shall be so taken or condemned or shall receive any direct or consequential damage by reason of anything done pursuant to public or quasi-public authority, such that continued operation of the same could, in Landlord's reasonable opinion, be uneconomical, Landlord shall have the right to terminate this Lease by giving notice to Tenant of Landlord's desire to do so not later than thirty (30) days after the effective date of such taking, provided Landlord simultaneously terminates the leases of all tenants similarly situated. Should any part of the Premises be so taken or condemned or receive such damage and should this Lease not be terminated in accordance with the foregoing provisions, Landlord shall, promptly after the determination of Landlord's award on account thereof, expend so much as may be necessary of the net amount which may be awarded to Landlord in such condemnation proceedings in restoring the Premises to an architectural unit that is reasonably suitable to the uses of Tenant permitted hereunder. Should the net amount so awarded to Landlord be insufficient to cover the cost of so restoring the Premises, in the reasonable estimate of Landlord, Landlord may, but shall have no obligation to, supply the amount of such insufficiency and restore the Premises to such an architectural unit, with all reasonable diligence, or may terminate this Lease by giving notice to Tenant not later than a reasonable time after Landlord has determined the estimated cost of such restoration.

Section 15.2 Payment of Award. Landlord shall have and hereby reserves and excepts, and Tenant hereby grants and assigns to Landlord, all rights to recover for damages to the Medical Center, the land on which the Medical Center is located, the Premises, and the leasehold interest hereby created, and the compensation accrued or hereafter to accrue by reason of such taking or damage, as aforesaid. Tenant covenants to deliver such further assignments and assurances thereof as Landlord may from time to time request. Nothing contained herein shall be construed to prevent Tenant from prosecuting in any condemnation proceedings a claim for the value of any of Tenant's Trade Fixtures installed in the Premises by Tenant at Tenant's expense, the Unamortized Cost of Tenant's Improvements, for relocation expenses, and any other claim or right Tenant may have by law.

Section 15.3 Abatement of Rental. In the event of any such taking of the Premises, the Annual Basic Rental and other charges, or a fair and just proportion thereof, according to the nature and extent of the damage sustained, shall be suspended or abated, as appropriate and equitable in the circumstances.

Section 15.4 Miscellaneous. Landlord shall be excused from the obligation to make any repairs under this Article 15 to the extent prevented from doing so by reason of any cause beyond its reasonable control, including requirements of any applicable laws, codes, ordinances, rules or regulations. In no event shall Landlord be liable to Tenant for indirect or consequential damages.

ARTICLE 16 **ASSIGNMENT AND SUBLETTING; SUBORDINATION**

Section 16.1 Landlord's Consent Required.

(a). Except to the extent expressly provided in Sections 16.1 (b) below, Tenant will not assign this Lease, in whole or in part, nor sublet all or any part of the Premises, nor license concessions or lease departments therein, without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld, delayed or conditioned. Consent by Landlord to any assignment or subletting shall not constitute a waiver of the requirement for such consent to any

subsequent assignment or subletting.

(b). Notwithstanding anything to the contrary contained elsewhere in this Lease, Tenant may, with Landlord's prior written consent, which consent shall not to be unreasonably withheld or conditioned so long as Tenant intends to:

- (i). Assign this Lease, or sublet all or any part of the Premises to its parent corporation or to any affiliate of Tenant, or to a joint venture in which Tenant is a joint venture partner provided any such assignment or subletting is made in good faith and not for the sole purpose of avoiding the restrictions on assignments or subletting set forth in this Article. As used in this subsection: the term "parent" means any entity that controls Tenant; and the term "affiliate" means any entity which is directly or indirectly controlled by or controlling any parent or subsidiary of Tenant. The terms "control" and "controlled by" and "controlling" shall have the meanings given those terms under the federal securities laws.
- (ii). Assign this Lease or sublet all or any part of the Premises to any corporation into which or with which Tenant or its parent may merge or to any corporation or other business entity or to any company which may result from a reorganization or consolidation by or with Tenant, or to which Tenant shall sell all or substantially all of its assets in the state in which the Premises is located or all or substantially all of its corporate shares.
- (iii). Assign this Lease or sublet the Premises to a bona fide franchisee of Tenant;
- (iv). Execute and deliver a mortgage, deed of trust, pledge and or collateral assignment of this Lease ("Mortgage") as security for any indebtedness in any form whatsoever. Landlord, however, shall not be required to subordinate its fee simple interest in the leased Premises to any such leasehold mortgage. In the event Tenant shall execute and deliver a Mortgage, and if the holder of the indebtedness secured by this Lease ("Mortgagee") notifies Landlord of the execution of such Mortgage, and the name and place for service of notices upon such Mortgagee, then and in such event, Landlord hereby agrees for the benefit of Tenant and such Mortgagee from time to time:
 - a. That Landlord will give to any Mortgagee simultaneously with service on Tenant a duplicate of any and all notices or demands given by Landlord to Tenant and no such notice shall be effective unless a copy is so serviced upon Mortgagee.
 - b. Landlord shall not terminate this Lease or Tenant's right of possession for any default of Tenant if, within a period of thirty (30) days after the expiration of the period of time within which Tenant might cure such default, such default is cured or caused to be cured by Mortgagee or, if within a period of thirty (30) days after the expiration of the period of time within which Tenant might commence to eliminate the cause of such default, Mortgagee diligently commences to cure such default.

The assignments and sublettings described in this Subsection 16.1(b) are sometimes hereinafter referred to as "Permitted Transfers".

(c) It shall be a condition of any assignment, other transfer, or subletting permitted under Section 16.1 (b) that the assignee, transferee, or subtenant agree directly with Landlord, in a written instrument reasonably satisfactory to Landlord, to be bound by all Tenant obligations hereunder,

including, without limitation, the obligation to pay Rental and other amounts provided for under this Lease and the covenant against further assignment or other transfer or subletting. Nothing contained in this Section 16.1 shall operate to release Tenant from its obligations hereunder, including, without limitation, the obligation to pay Rental and other amounts provided for under this Lease and the covenant against further assignment or other transfer or subletting.

(d) Anything herein to the contrary notwithstanding, Landlord's consent shall not be required for any public offering of stock in Tenant through a nationally recognized exchange.

Section 16.2 Subordination and Non-Disturbance Agreement. Provided Tenant has received a Subordination, Non-Disturbance and Attornment Agreement in substantially the same form as Exhibit G, Tenant agrees to subordinate this Lease to any mortgage, now or hereafter placed upon the land of which the Premises are a part and to all advances made or hereafter to be made upon the security thereto. The word "mortgage" as used herein includes mortgages, deeds of trust or similar instruments. As a condition of Tenant's subordination of this Lease, Landlord agrees that if Tenant is not in default beyond applicable notice and cure periods under Article 17 of this Lease, its tenancy will not be disturbed, but shall continue in full force and effect. At the time the Lease is executed, Landlord will obtain from every senior landlord and mortgagee a Subordination, Non-Disturbance and Attornment Agreement, in substantially the same form as Exhibit G. Rent Commencement shall not occur until Tenant has received said fully executed Subordination, Non-Disturbance Attornment Agreement(s).

ARTICLE 17 **DEFAULT**

Section 17.1 "Event of Default" Defined. Any one or more of the following events shall constitute an "Event of Default":

- (a). Tenant shall fail to pay Rental or other charges on or before the same becomes due hereunder, and such failure continues for ten (10) days after such Rental or other charges is due and payable pursuant to the terms hereof;
- (b). Failure by Tenant to perform any of Tenant's obligations, terms or conditions as set forth in this Lease, or in the event Tenant shall do or permit anything to be done, whether by action or inaction, contrary to any of Tenant's obligations hereunder, and if such situation shall continue and shall not be remedied by Tenant within thirty (30) days after Landlord shall have given Tenant a notice specifying the same, or in the case of a happening or default which cannot with due diligence be cured within a period of thirty (30) days and the continuance of which for the period required for cure will not subject Landlord to the risk of criminal liability or termination of any superior lease or foreclosure of any superior deed, if Tenant shall not (i) within said thirty (30) day period advise Landlord of Tenant's intention to duly institute all steps necessary to remedy such situation, (ii) duly institute within said thirty (30) day period, and thereafter diligently prosecute to completion all steps necessary to remedy the same, and (iii) complete such remedy within such time after the date of giving of said notice of Landlord;; and
- (c). Except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a

court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of a law now or hereafter enacted, and such proceeding is not dismissed within sixty (60) days after it is begun, or if Tenant shall file a petition for such reorganization, or for arrangements under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment of debts.

- (d). Subject to Section 4.3, abandon the Premises, or fail to operate the restaurant and/or grab and go for a continuous period in excess of forty-five (45) days, on or before the fifth (5th) year of the Lease Term.

Section 17.2 Remedies. Upon the occurrence and continuance of an Event of Default, Landlord, may, at Landlord's option and without limiting Landlord in the exercise of any other right or remedy Landlord may have on account of such default, and without any further demand or notice, re-enter the Premises and remove all persons therefrom, and terminate this Lease or pursue any other remedy available to Landlord at law or in equity, provided that Landlord shall not, upon the exercise of any remedy granted above or otherwise accruing to Landlord upon a breach by Tenant of any covenant or obligation under this Lease, thereby obtain or secure any right, title or interest in any of the Trade Fixtures, interior and exterior signs and any other removable personal property placed upon the Premises by Tenant at its sole cost and expense.

In the event that Landlord shall elect to so terminate this Lease then Landlord may recover from Tenant:

- (i) the worth at the time of award of any unpaid Rental and any other sums due and payable which have been earned at the time of such termination; plus
- (ii) the worth, at the time of the award, of the amount by which the unpaid Rental and any other sums due and payable which would have been earned after termination until the time of award exceeds the amount of the such rental loss Tenant proves could have been reasonably avoided; plus
- (iii) the worth at the time of award of the amount by which the unpaid Rental and any other sums due and payable for the balance of the term of this Lease after the time of award exceeds amount of such rental loss that Tenant proves could be reasonably avoided; plus
- (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course would be likely to result there from, including, without limitation, any costs or expenses incurred by Landlord (i) in retaking possession of the Premises; (ii) in maintaining, repairing, preserving, restoring, other costs reasonable to relet the Premises; plus
- (v) such reasonable attorneys' fees incurred by Landlord as a result of default, and costs in the event suit is filed by Landlord as allowed by law to enforce such remedy. As used in subparagraph (3) above, the "worth at the time of award" is computed at the Interest Rate.

Section 17.3 Landlord's Default. Landlord shall in no event be in default in the performance of any of Landlord's obligations hereunder, for the breach of any warranty hereunder or the failure by Landlord to perform any covenant required to be performed by Landlord hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days after notice from Tenant,

or such additional time as is reasonably required to correct any such default (provided Landlord has commenced such cure within such thirty (30) day period and is diligently prosecuting the same to completion), after notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation, or if Landlord shall fail to pay any sums due to Tenant hereunder, and such failure shall continue for a period of thirty (30) days after receipt by Landlord of written notice thereof from Tenant, then Tenant may, in addition to any of Tenant's other rights set forth elsewhere in this Lease, (a) cure any default or breach of warranty of Landlord hereunder, and perform any covenants which Landlord has failed to perform, and any sums expended by Tenant in curing such default or breach of warranty and performing such covenants shall be paid by Landlord to Tenant immediately upon demand, shall bear interest at the Default Rate per annum from the date of demand, and may be offset by Tenant against future Rentals; (b) bring suit to recover from Landlord all sums due Tenant from Landlord together with interest at the Default Rate per annum thereon; and/or (c) declare this Lease to be terminated, in which event Tenant shall have no further liability hereunder.

ARTICLE 18

LANDLORD'S ACCESS TO THE PREMISES

Section 18.1 Landlord's Right of Access. Upon at least twenty-four (24) hours prior notice, Landlord shall have the right to enter the Premises at all reasonable hours for the purpose of inspecting or of making repairs, alterations or additions to the Premises or the Medical Center. Any such access shall be made with minimal interference with the business operations of Tenant in the Premises. In the event any such access by Landlord interrupts operations by Tenant in any material respect, Rental shall abate until such interference shall cease.

Section 18.2 Access During the Last Month of Term. If during the last month of the Term, Tenant shall have removed all of Tenant's property therefrom, Landlord may immediately enter and alter, renovate and redecorate the Premises, without elimination or abatement of Rental, or incurring liability to Tenant for any compensation, and such acts shall have no effect upon otherwise applicable terms of this Lease.

ARTICLE 19

MISCELLANEOUS

Section 19.1 Waiver. Failure on the part of Landlord or Tenant to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be a waiver by Landlord or Tenant of its rights hereunder. Further, no waiver at any time of any of the provisions hereof by Landlord or Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval of Landlord or Tenant to or of any action by the other requiring such consent or approval shall not be construed to waive or render unnecessary Landlord's or Tenant's consent or approval to or of any subsequent similar act by the other.

Section 19.2 Covenant of Quiet Enjoyment. Subject to the terms and provisions of this Lease and on payment of the Rental and compliance with all of the terms and provisions of this Lease, Tenant shall lawfully and peaceably and quietly have, hold, occupy and enjoy the Premises during the Term hereof, without hindrance or ejection by Landlord or by any persons lawfully claiming by, through or under Landlord.

Section 19.3 Invalidity of Particular Provisions. If any term or provision of this Lease, or the application thereof, to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 19.4 Provisions Binding, Etc. Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant and, if Tenant shall be an individual, upon and to his heirs, executors, administrators, legal representatives, successors and assigns. Each term and each provision of this Lease to be performed by Tenant shall be construed to be both a covenant and a condition. The reference contained to the successors and assigns of Tenant is not intended to constitute a consent to assignment by Tenant, but has reference only to those instances in which Landlord may later give consent to a particular assignment as required by the provisions of this Lease. If Tenant be several persons, natural or corporate, the liability of such persons for compliance with the obligations of Tenant under this Lease shall be joint and several.

Section 19.5 Recording. Tenant agrees not to record this Lease, but each party hereto agrees, on the request of the other, to execute, acknowledge and deliver to each other a Memorandum of Lease, a copy of is attached as Exhibit H, which may be recorded by either party.

Section 19.6 Notices. Any notice, demand, request, approval, consent or other instrument which may be or is required to be given under this Lease shall be in writing and shall be deemed to have been given three (3) days after having been mailed by United States registered or certified mail, return receipt requested, postage prepaid, or when received or refused, if sent by overnight courier or delivery service, addressed to Landlord or Tenant at the respective addresses set forth in Section 1.1 of this Lease or such other address or addresses as either party may designate by notice to the other in accordance with this Section.

Section 19.7 When Lease Becomes Binding. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Premises, and this document shall become effective and binding only upon the execution and delivery hereof by both Landlord and Tenant. All negotiations, consideration, representations and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by written agreement signed by both Landlord and Tenant, and no act or omission of any employee or agent of Landlord or course of prior dealings between the parties, shall alter, change or modify any of the provisions hereof. This Lease may be executed in more than one counterpart, and each such counterpart shall be deemed to be an original document.

Section 19.8 Interpretation.

- (a). All captions, table of contents and index of defined terms appearing in this Lease are inserted only as a matter of convenience and in no way amplify, define, construe or describe the scope or intent of this Lease. Except where otherwise expressly provided, each reference in this Lease to a Section or Article shall mean the referenced Section or Article in this Lease.
- (b). The neuter, feminine or masculine pronoun when used herein shall each include each of the other genders and the use of the singular shall include the plural.
- (c). The parties hereto agree that all the provisions of this Lease are to be construed as covenants

and agreements as though the words importing such covenants and agreements were used in each separate provision hereof.

- (d). Although the printed sections of this Lease may have been drawn by Tenant, this Lease shall not be construed for or against Landlord or Tenant, but this Lease shall be interpreted in accordance with the general tenor of the language in an effort to reach the intended result.
- (e). The parties hereto agree that all references in this Lease to statutes shall be deemed to refer to such statutes or regulations as they may be amended from time to time and to any successor statute or regulation hereto.

Section 19.9 Self-Help. Landlord shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of moneys which may be necessary or appropriate by reason of the failure or neglect of Tenant to perform any of the provisions of this Lease following notice and the expiration of applicable notice and/or grace periods, and in the event of the exercise of such right by Landlord, Tenant agrees to pay to Landlord forthwith upon demand all such reasonable sums, with interest thereon from the date Landlord pays such sums at the Default Rate; and if Tenant shall default in such payment, Landlord shall have the same rights and remedies as Landlord has hereunder for the failure of Tenant to pay Rental.

Section 19.10 No Joint Venture. Any intention to create a joint venture or partnership relation between the parties is hereby expressly disclaimed.

Section 19.11 Unavoidable Delay. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, inability to procure labor or materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, fire or other casualty or other reason of a similar nature beyond the reasonable control of the party delayed in performing work or doing the act required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period from the performance of any such act shall be extended for a period equivalent to the period of such delay (any such delay is herein referred to as an "Unavoidable Delay").

Section 19.12 Applicable Law; Choice of Law and Forum. The laws of the state in which the Premises are located shall govern the validity, performance and enforcement of this Lease. If either party institutes legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be the county in which the Premises are located.

Section 19.13 Non-Discrimination. Tenant herein covenants by and for itself, its successors and assigns, and all claiming under or through them, and this Lease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons on account of sex, marital status, race, color, creed, religion, national origin, ancestry, sexual orientation or otherwise as prohibited by law, in the Premises or the Medical Center.

Section 19.14 Landlord Representations and Warranties. The following representations and warranties are made for the benefit of Tenant:

- (a). If Landlord is a corporation, Landlord represents and warrants that Landlord is duly organized, validly existing, in good standing in the state of its incorporation, and has all requisite power and authority to own and lease property and conduct business in the state where the Premises are located, and each individual executing this Lease on behalf of Landlord represents and warrants

that he or she is duly authorized to execute and deliver this Lease on behalf of Landlord;

- (b) If Landlord is a partnership, each individual executing this Lease represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of the partnership, and that the persons who have executed this Lease on behalf of the partnership are all of the partners whose signatures are necessary to bind the partnership;
- (c) If Landlord is an individual or individuals, each individual executing this Lease represents and warrants that he or she is duly authorized to execute and deliver this Lease;
- (d) If more than one person is Landlord, they represent and warrant that the obligations of such persons as Landlord are joint and several;
- (e) Landlord represents and warrants that this Lease is binding on Landlord in accordance with its terms;
- (f) Landlord represents and warrants that Landlord is the fee owner of the Premises;
- (g) Landlord represents and warrants that there are no provisions contained in the leases of other tenants in the Medical Center, or elsewhere that would adversely affect the construction of Tenant Improvements or the conduct of Tenant's Permitted Use on the Premises; and
- (h) Landlord represents and warrants that Landlord has no knowledge of (i) enacted, pending or proposed condemnation proceedings or other governmental action, (ii) pending or threatened litigation, (iii) current or proposed plans to alter access to the Premises, or (iv) the presence on the Premises of anything dangerous to humans such as Hazardous Materials, which would adversely affect the construction of Tenant Improvements or the conduct of Tenant's Permitted Use on the Premises.

Section 19.15 Tenant Representations and Warranties. The following representations and warranties are made for the benefit of Landlord:

- (a) Tenant represents and warrants that Tenant is duly organized, validly existing, in good standing in the state of its incorporation, and has all requisite power and authority to own and lease property and conduct business in the state where the Premises are located, and that each individual executing this Lease on behalf of Tenant is duly authorized to execute and deliver this Lease on behalf of Tenant; and
- (b) Tenant represents and warrants that this Lease is binding on Tenant in accordance with its terms.

Section 19.16 Certificates by Landlord and Tenant.

- (a) Tenant agrees at any time and from time to time upon not less than thirty (30) days prior notice by Landlord or the holder of any mortgage encumbering the Premises to execute, acknowledge and deliver to Landlord or the holder of such mortgage, a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications or supplemental agreements that the same are in full force and effect as modified or supplemented and stating the modifications and supplemental agreements) and the dates to which the Rental payable by Tenant hereunder has been paid and stating whether or not, to the best knowledge of Tenant, Landlord is in default in performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which Tenant may have

knowledge. Landlord shall pay Tenant's actual expenses, including without limitation, attorneys' fees, incurred in providing such certificate more than once in any twelve (12) month period.

- (b) Landlord agrees at any time and from time to time upon not less than thirty (30) days prior notice by Tenant, to execute, acknowledge and deliver to Tenant or to such party as Tenant may designate, a statement in writing by Landlord certifying that this Lease is unmodified and in full force and effect (or if there have been modifications or supplemental agreements that the same are in full force and effect as modified or supplemented and stating the modifications and supplemental agreements) and the dates to which the Rental hereunder has been paid, and stating whether or not, to the best knowledge of Landlord, Tenant is in default in the performance of any covenant, agreement or condition contained in this Lease, and if so, specifying each such default of which Landlord may have knowledge. Tenant shall pay Landlord's actual expenses, including without limitation, attorneys' fees, incurred in providing such certificate more than once in any twelve (12) month period.


Section 19.17 Antennae. Tenant shall have the right to use space on the roof of the Premises for the purpose of installing, operating and maintaining not more than two (2) satellite dishes and/or antennae for the conduct of its business in the Premises. Each such antenna shall be of a size and height approved by Landlord, whose approval shall not be unreasonably withheld, delayed or conditioned. Tenant shall submit to Landlord the specifications of said antennae and/or satellite dishes, together with detail on the method of fixing same to the roof, for Landlord's review and approval.

Section 19.18 Riders. Exhibits A, A-1, B, C, D, E, F, G and H are attached hereto are hereby made a part hereof.


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IN WITNESS WHEREOF, the parties have caused this Lease to be under seal as of the date previously set forth.

LANDLORD: County of Riverside, a political Subdivision of the state of California

By: 
Print Name: KEVIN JEFFRIES
Title: CHAIRMAN, BOARD OF SUPERVISORS

TENANT: PANERA, LLC, a Delaware limited liability company

By: 
Print Name: GEN. COUNSEL
Title: VP, DEPUTY GENERAL COUNSEL

ATTEST:

Kecia R. Harper
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos, County Counsel

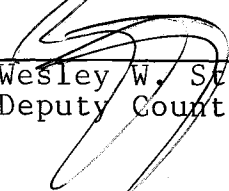
By: 
Wesley W. Stanfield
Deputy County Counsel

EXHIBIT A

SITE PLAN OF CENTER AND LOCATION OF PREMISES AND DUMPSTER LOCATION

Exhibit A

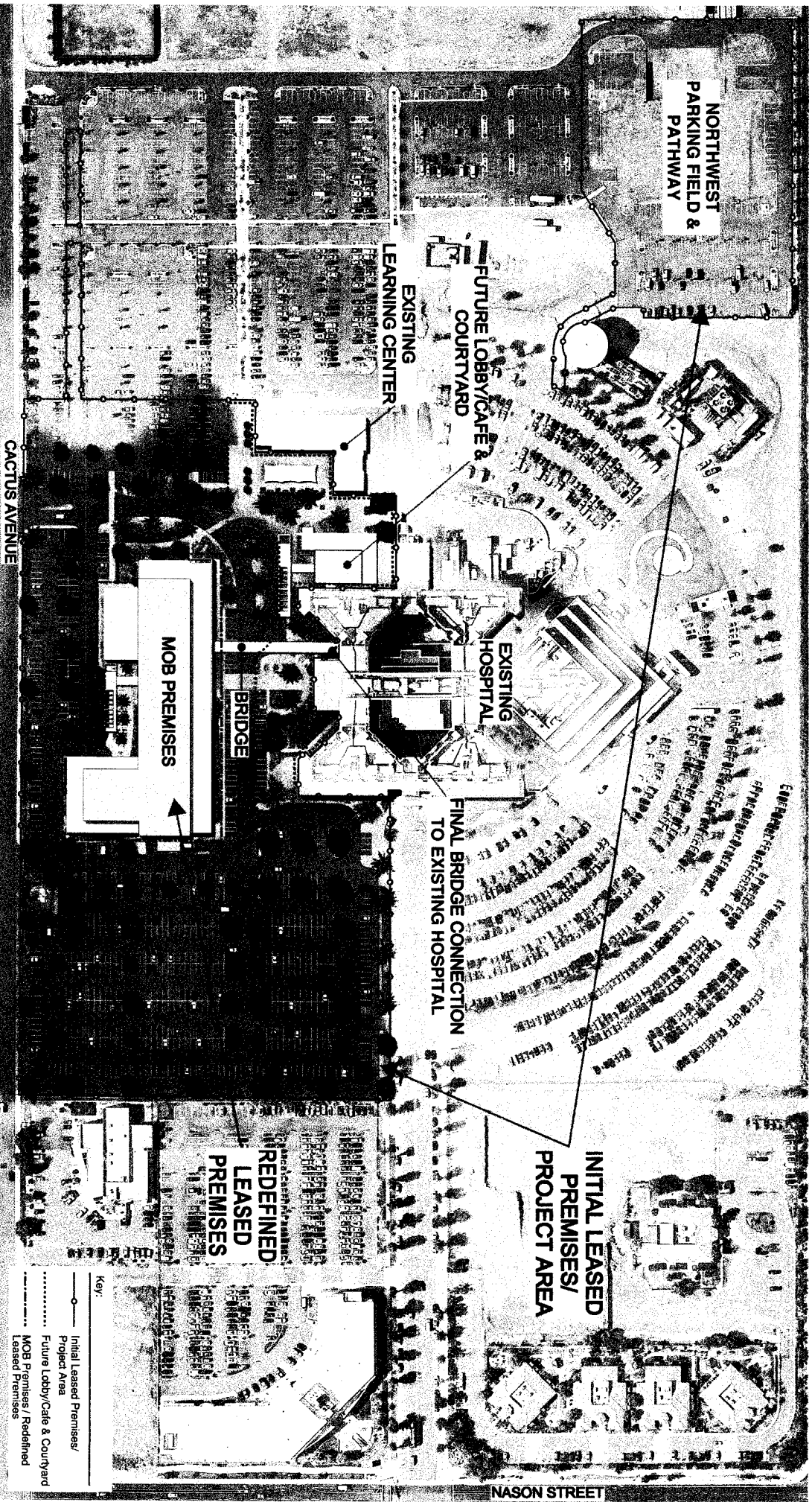


EXHIBIT A-1
PLAN OF PREMISES, AND OUTDOOR CAFE SEATING AREA

1 OPS PLAN
 3/16" = 1'-0"

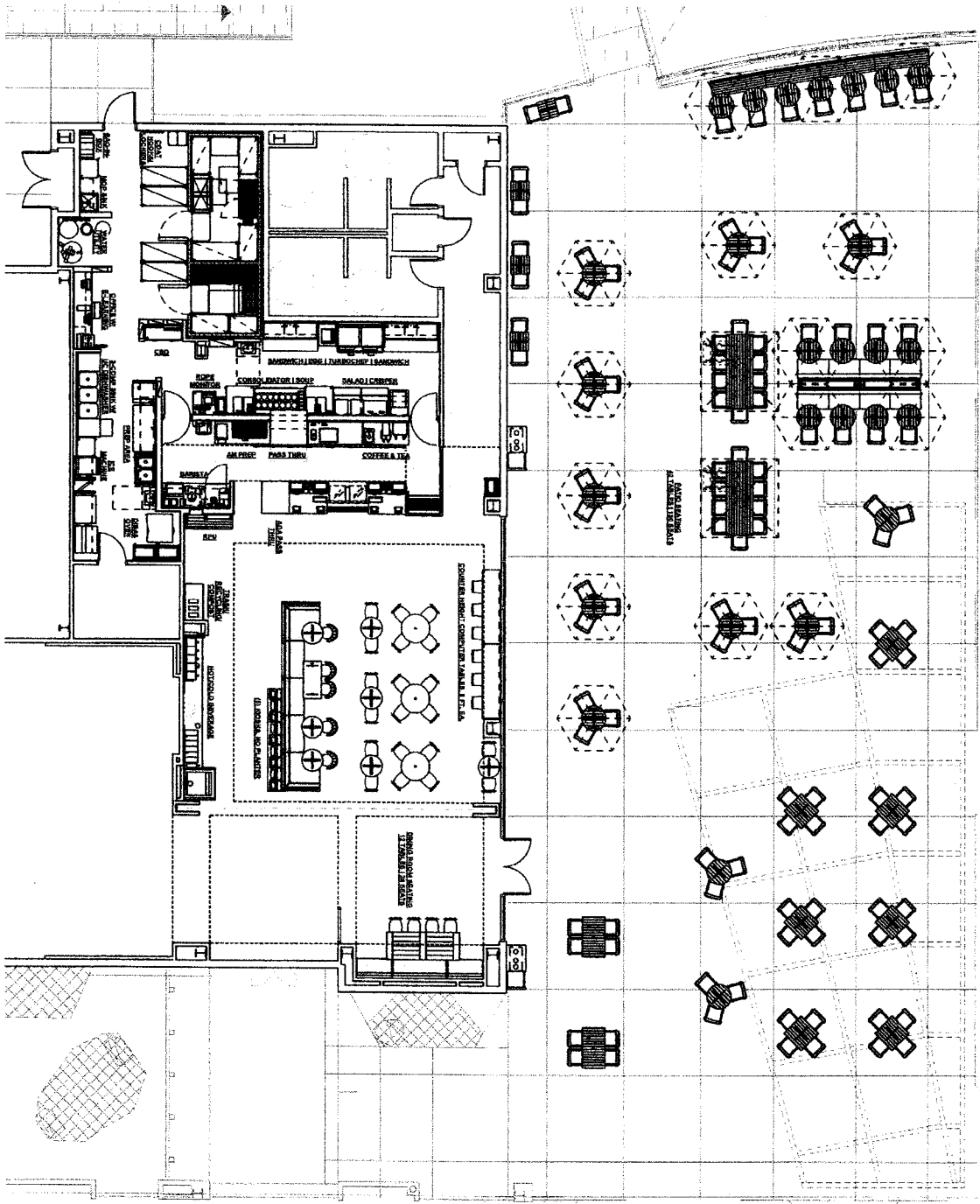


Exhibit A-1

NO.	DESCRIPTION	DATE

OPS PLAN
 PROJECT NO. 0103
 DATE 01/03



Bakery Cafe #6159
 RIVERSIDE UNIVERSITY
 HOSPITAL
 MORENO VALLEY, CA

OPS REVIEW

NOT FOR CONSTRUCTION

DP3 ARCHITECTS, LTD.
 19 BROADWAY, SUITE 300
 OAKLAND, CA 94612
 TEL: 415.778.2222
 FAX: 415.778.2227
 WWW.DP3ARCHITECTS.COM

DP3
 ARCHITECTS

#6159

EXHIBIT A-2
PLAN OF GRAB AND GO AREA A-2

Exhibit A-2

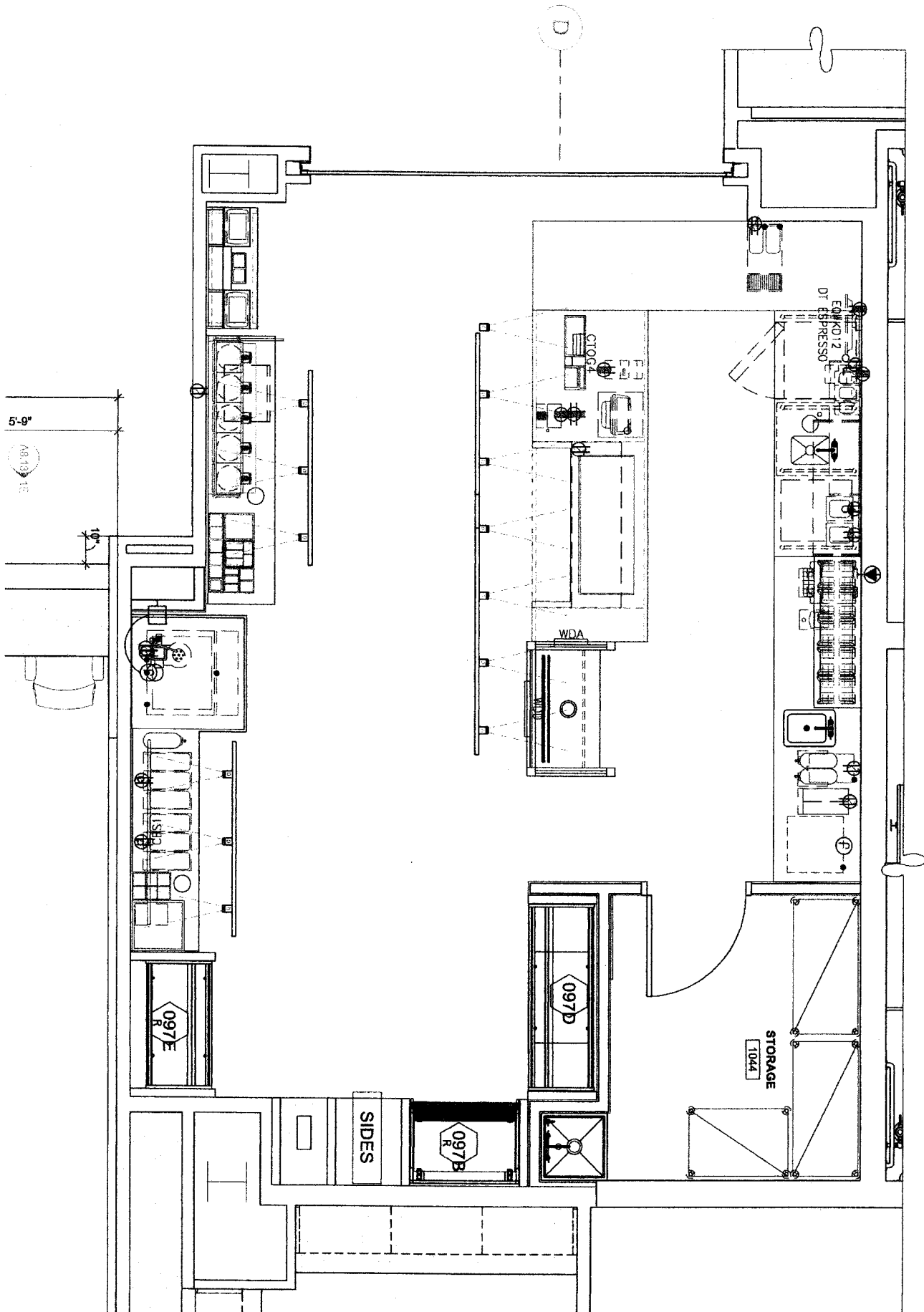


EXHIBIT B
DESCRIPTION OF LANDLORD'S WORK

(Including Ware Malcomb drawings attached, as Job IRV16-3018-02- 4.22.19)

EXHIBIT B
DESCRIPTION OF LANDLORD'S WORK
Note: To be further defined upon receipt of Tenant's Preliminary Plans

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Lease.

I. INITIAL BUILD OUT

Landlord's Work: Landlord's Work means all improvements shown on those plans submitted by Landlord and incorporated into this Exhibit B upon their completion. and the items listed below. Landlord will complete all of Landlord's Work at Landlord's sole cost and expense, using all new, first-class quality construction and materials prior to delivering possession of the Premises to Tenant.

Landlord shall be solely responsible for the payment of any imposition charged by applicable governmental jurisdictions or utility providers which are commonly referred to under one of the following names, which list is included for illustrative purposes only and is not intended to be exhaustive: connection charges, availability fees, tie-in fees, meter fees or charges, "tap-in" or tap fees or impact charges, and any similar imposition charged by applicable governmental authorities or utility providers associated with the development of the Medical Center and the Premises and the use of the Premises for the Permitted Use.

Landlord will perform Landlord's Work in a good and workmanlike manner and in compliance with all "Applicable Laws" (defined as all laws, statutes, ordinances, building codes, and rules and regulations applicable to performance of Landlord's Work). Landlord will obtain all permits for Landlord's Work and will have all necessary building code inspections completed prior to delivering possession of the Premises to Tenant.

Tenant's construction manager or its designated representative may enter upon the Premises during construction of Landlord's Work to inspect the progress; to determine if Landlord's Work is being completed in accordance with Tenant's Plans; and to determine whether Landlord's Work is progressing on schedule. Landlord shall cooperate with Tenant to ensure that Landlord's Work is acceptable to Tenant.

II. RESTORATION AFTER DAMAGE

If the Premises is damaged or destroyed by any casualty and Landlord is required to repair or restore the Premises pursuant to the Lease, Landlord will repair and restore all of the improvements described below, to the extent such items existed on the date of such damage.

III. PARTIES OBLIGATIONS UPON DELIVERY OF POSSESSION

Upon delivery of possession of the Premises to Tenant, Tenant shall inspect the Premises to determine whether Landlord's Work has been completed. If Landlord's Work has been completed in accordance with the terms of the Lease and Tenant's Plans, then Tenant's construction manager shall indicate in writing that Tenant has accepted Landlord's Work. If Landlord's Work

has not been completed according to the terms of the Lease and Tenant's Plans, then Tenant shall indicate in writing which items were not complete. If Landlord has not completed such items within a reasonable period of time, then Tenant may in its discretion (a) elect to accept possession of the Premises without requiring completion of Landlord's Work by Landlord (in which case Tenant may complete such items as if they were originally intended to be completed by Tenant at Landlord's expense) or (b) refuse to accept possession of the Premises until Landlord's Work is completed correctly. In the event Landlord's work is complete, Tenant shall proceed with Tenant's Work which includes procurement and installation of the Furniture, Fixtures, and Equipment and millwork and related components, pursuant to the Description of Tenant's Work and Tenant's plans as set forth in Exhibit "C."

Landlord shall be responsible for all demising and interior walls of construction per Tenant's plans, dry-walled and taped; dropped ceilings including grid and soffits per Tenant plans; HVAC and all distribution ductwork including diffusers; electrical service and all electrical distribution; all plumbing stubbed to locations per Tenant plans; fire protection including distribution throughout the space per Tenant's plans. Landlord shall also supply and provide installation of all interior lighting, electrical fixtures, millwork, interior finishes including paint, wall tile, ceiling finishes and lay-in tiles, finished flooring material such as tile, carpeting, wood or terrazo; specialty lighting fixtures; and any other similar items, per Tenant's plans.

Tenant shall be responsible for Tenant's equipment, interior security system, POS system, signage and artwork, patio furniture and umbrellas including installation and commissioning of all the Tenant provided items,,

Landlord to complete at Landlord's expense

HVAC

- HVAC system (system type to be defined) capable of supplying a total of one ton of cooling/heating per 140 square feet and 20 CFM/person of fresh air. System shall be sleeved into Premises (and to include any fire rated enclosure required by Applicable Law), and delivered to Tenant in operational condition including all required plumbing and electrical connections. System shall also provide adequate oven exhaust and make-up air ducting, oven flues, water heater flues and fresh air intake, as required by Tenant.
- Landlord to configure existing ductwork and/ or install new ductwork where needed according to Tenant's Plans.
- Thermostats per Applicable Law to Tenant's specifications to be located according to Tenant's Plans.
- Exhaust fan providing 2000 CFM kitchen exhaust. Fan to be sleeved into the Premises (and include any fire rated enclosure or dampers as required by Applicable Law), and delivered to Tenant in operational condition including all required plumbing and electrical connections. Location per Tenant's Plans.

ELECTRICAL

Electrical Service

- **600 amp, 208 volt service, 3 phase, 4 wire electrical service stubbed to a Main Distribution Panel with breakers provided by the Landlord in the Premises and furnished with 800 amp disconnect as required by Applicable Law and local utility company. Location per Tenant's Plans. Specification for Main distribution Panel shall be Carolina Products, Inc. (CPI) integrated panel system as manufactured for Panera Bread by CPI.**

Electrical Miscellaneous

- (2) - 1" conduits with pull wire stubbed into the Premises from master telephone panel. Location per Tenant's Plans.
- 1" minimum conduit and wire stubbed into the Premises from base building fire alarm system terminating at a junction box within the Premises. Base building fire alarm system to have enough capacity to ensure that Tenant's Fire alarm system will meet all Applicable Laws. Location of conduit stub per Tenant's Plans.
- Ceiling grid and lighting, per Tenant's Plans.

PLUMBING

- Minimum 1 ½" domestic cold water line and all associated metering and backflow prevention (including any and all "tap" fees & "meter" fees and the like, as described above), valved as needed. Minimum 45 PSI after any metering and backflow prevention devices and with a maximum of 70 PSI is required throughout the Term of the Lease. Landlord shall run water lines and stub to locations of Tenant's fixtures per Tenant's Plans.
- Sanitary sewer line per code inside the Premises. If required by code, grease trap, per Tenant's plans, to be furnished and installed by Landlord.
- Landlord shall be solely responsible for the payment of any imposition charged by applicable governmental jurisdictions or utility providers which are commonly referred to under one of the following names, which list is included for illustrative purposes only and is not intended to be exhaustive: connection charges, availability fees, tie-in fees, meter fees or charges, "tap-in" or tap fees or impact charges, and any similar imposition charged by applicable governmental authorities or utility providers associated with the development of the Center and the Premises and the use of the Premises for the Permitted Use.
- Natural gas service capable of providing 1600 MBH including all associated pressure regulators, valves, and metering. Service shall deliver gas to the Premises at a pressure between 9" – 12" WC, valved and capped within the Premises. Location per Tenant's Plans. NOTE: TO BE FURTHER DISCUSSED DURING DESIGN PROCESS IF NATURAL GAS IS NOT AVAILABLE, OR IF PROPANE IS NOT FEASIBLE OR DESIRABLE AND ELECTRIC OVENS ARE USED.

FIRE PROTECTION

- Fire protection system to code and all associated piping brought to and distributed within the Tenant space. Sprinkler coverage (drops and heads) distributed throughout the Premises and zoned properly per requirements of Applicable Law and Tenant's Plans. Main sprinkler line to be no lower than 14'-6" A.F.F. and have a functioning flow switch if required by Applicable Law.

DEMISING WALLS

- Demising walls framed with 6" 20 gauge studs - 16" o.c. insulated (R-19).
- Demising walls sheet rocked with gypsum wallboard (thickness and type per code), fire taped from 12'-6" A.F.F. to the underside of roof structure. Seal all penetrations, gaps, existing holes, etc. with fire-rated sealant.

STRUCTURAL, EXTERIOR, STOREFRONT & ENTRY DOORS

- Structural system for the Building (including but not limited to: roof system, roof mounted equipment support, floor system, load bearing walls, and structural columns) capable of handling all loads required by code and by Tenant's construction. Landlord agrees to minimize the number of columns in the Premises where possible and coordinate with Tenant on the locations of any required columns.
- Soffit above and doors according to Tenant's Plans.

DEMOLITION, FLOORS, & CEILINGS

- Broom clean floor with all debris removed.
- New floor slab per Tenant's Plans, with utilities per Tenant's Plans. Tenant will inspect utilities prior to final pour of floor slab.
- All asbestos and other hazardous materials removed and properly disposed of by a licensed asbestos/hazardous material removal company. All asbestos and other hazardous materials to be removed from the Premises and any other location where Tenant's work will be performed. Landlord to certify that the Premises are free of any asbestos or other hazardous material.
- All ceiling clearances below ducts, pipes and any other items running above the ceiling to accommodate a minimum finished ceiling height of 11'-0".

EXHIBIT C
DESCRIPTION OF TENANT'S WORK
TENANT'S FINAL CONSTRUCTION DRAWINGS

Tenant's Work means all improvements, furniture, fixtures, and equipment and mill work shown on Tenant's Final Construction Drawings to be attached to this Exhibit "C" to be completed by Tenant at Tenant's sole cost and expense.

Tenant shall perform Tenant's Work in a good and workmanlike manner and in compliance with all "Applicable Laws" (defined as laws, statutes, ordinances, building codes, and rules and regulations applicable to the performance of Tenant's Work. Tenant will obtain all permits for Tenant's Work and will have necessary building code inspections completed prior to delivering progressing on schedule. Tenant shall provide a construction schedule which shall be incorporated into this Exhibit "C," setting forth the timeline for installation of the Furniture, Fixtures, and Equipment and Millwork and related components.

(Patio Furniture set forth in schedule attached)

(Construction Drawings To Be Provided In Accordance with Scheduled Plan Submission Dates at Section 1.1)

FURNITURE SCHEDULE

CODE	QTY	DESCRIPTION	MANUF.	FINISH	FABRIC (BACK)	FABRIC (SEAT)	METAL
B1L48	2	G4 BOOTH 48" WITH WOOD BACK & SEAT PLATFORM	FDS	PER PLAN	F56	S52	N/A
B1L72	1	G4 BOOTH 72" WITH WOOD BACK & SEAT PLATFORM	FDS	PER PLAN	F56	S52	N/A
B4.CUST	3	G4 BOOTH WITH WOOD BASE & LEGS. DESIGNER TO EDIT WIDTH	FDS	PER PLAN	F100	S52	N/A
B4CL45	1	G4 LEFT CORNER BOOTH 45" WITH WOOD BASE & LEGS	FDS	PER PLAN	PER PLAN	PER PLAN	N/A
B4CR45	1	G4 RIGHT CORNER BOOTH 45" WITH WOOD BASE & LEGS	FDS	PER PLAN	F100	S52	N/A
BH1MG	11	G4 BAR HEIGHT CHAIR. OG STOOL	FDS	GREEN (OLIVE)	N/A	PER PLAN	N/A
DC2WL	5	G4 DINING CHAIR. DG SPINDLE	FDS	OAK - LIGHT	N/A	PER PLAN	N/A
DC3WD	22	G4 DINING CHAIR. DG CAFE	FDS	OAK - DARK	N/A	PER PLAN	N/A
OB1	4	G4 DG OUTDOOR BENCH WITH PLANTER BOX	FDS	PER PLAN	PER PLAN	PER PLAN	N/A
ODC2MT	120	G4 OUTDOOR DINING CHAIR	TBD	TBD	N/A	N/A	N/A
OT2424W	4	EXTERIOR TABLE - 24" x 24"	FDS	WOOD SLAT	N/A	N/A	N/A
OT3052W	11	EXTERIOR ADA TABLE - 30" x 52"	FDS	WOOD SLAT	N/A	N/A	N/A
OT3496W	2	EXTERIOR SAN BERNARDINO TABLE - 34" x 96"	FDS	WOOD SLAT	N/A	N/A	N/A
OTB	4	OUTDOOR TRASH & BUSSING UNIT	FDS	WOOD SLAT	-	-	-
OTR32W	26	EXTERIOR TABLE - 32" ROUND	FDS	WOOD SLAT	N/A	-	-
QUI02	2	Exterior Patio Umbrella W 24 Round Base 8.5x8.5'	TUJCI-BAY MASTER PARPASOL	Panera-Marina Grade Aluminum	<By Categor	-	-
OUI84A	3	HEXAGONAL EXTERIOR PATIO UMBRELLA W 24" ROUND BASE - 7x7'	TUJCI	Panera Awning Fabric Sunbrella Aspen	<By	-	-
OUI84B	13	HEXAGONAL EXTERIOR PATIO UMBRELLA W 24" ROUND BASE - 7x7'	TUJCI	Panera Awning Fabric Sunbrella Slate Barley	<By	-	-
T1869OL	1	24 X 69 WHITE OAK WIRE BRUSH TABLE - REQUIRES TWO CORE DRILLED BASES	FDS	OAK - LIGHT	-	-	-
T1882OL	1	24 X 82 WHITE OAK WIRE BRUSH TABLE - REQUIRES TWO CORE DRILLED BASES	FDS	OAK - LIGHT	-	-	-
T1896OL	2	24 X 96 WHITE OAK WIRE BRUSH TABLE - REQUIRES TWO CORE DRILLED BASES	FDS	OAK - LIGHT	-	-	-
TA2449OL	1	24 X 48 WHITE OAK WIRE BRUSH TABLE - REQUIRES TWO T BASES	FDS	OAK - LIGHT	-	-	-
TA3048OD	2	30 X 48 STAINED WHITE OAK WIRE BRUSH TABLE - REQUIRES TWO T BASES	FDS	OAK - LIGHT	-	-	-
TR28OL	6	28" ROUND WHITE OAK WIRE BRUSH TABLE	FDS	OAK - LIGHT	-	-	-
TR37OL	3	37" ROUND WHITE OAK WIRE BRUSH TABLE	FDS	OAK - LIGHT	-	-	-
TOTAL ITEMS: 251							

WOOD/STEEL SCHEDULE

Type	QTY	Value
305	6	30 F
B501	1	P
B502	1	
B503	1	
B504	1	
B505		
B506		
B507		
B508		
TOTAL		

Bakery Cafe #6159
 RIVERSIDE UNIVERSITY
 HEALTH SYSTEM
 MORENO VALLEY, CA

#6159

EXHIBIT C

EXHIBIT D

DECLARATION OF COMMENCEMENT DATE

This Declaration of Commencement Date ("Declaration") is attached to and made a part of that certain Lease Agreement by and between the County of Riverside, a political subdivision of the state of California ("Landlord") and Panera, LLC, a Delaware limited liability company ("Tenant") for the premises located at Medical Center Pavilion. The terms used in this Declaration that are defined in the Lease shall have the same meanings as provided in the Lease.

This Declaration is being provided pursuant to the terms and provisions of that certain lease agreement dated _____ (the "Lease"), between Landlord and Tenant. The parties to the Lease desire to confirm that the following terms which are defined in the Lease shall have the meanings set forth below for all purposes in the Lease:

The Lease Commencement Date is _____.

The Rental Commencement Date is _____.

The Lease shall terminate on _____, subject to earlier termination and extension period(s) as provided for in the Lease.

This Declaration shall be binding on the parties hereto, their successor and assigns and all subtenants of Tenant and any other party claiming under or through Tenant. The Lease is in full force and effect as of the date hereof in accordance with its terms, and Tenant is in possession of the Premises.

WITNESS:

LANDLORD:

Riverside University Health System

By: _____

Name: _____

Title: _____

WITNESS:

TENANT:

PANERA, LLC

By: _____

Name: _____

Its: _____

_____ / _____, _____

EXHIBIT E
INSURANCE COVERAGE

(a) Commercial General Liability

Bodily Injured and Property Damage	\$1,000,000	per occurrence combined
	\$1,000,000	general aggregate
Personal Injury and Advertising Injury	\$1,000,000	any one person or organization
Products/Completed Operations	\$2,000,000	annual aggregate
Fire Legal Liability	\$1,000,000	any one fire

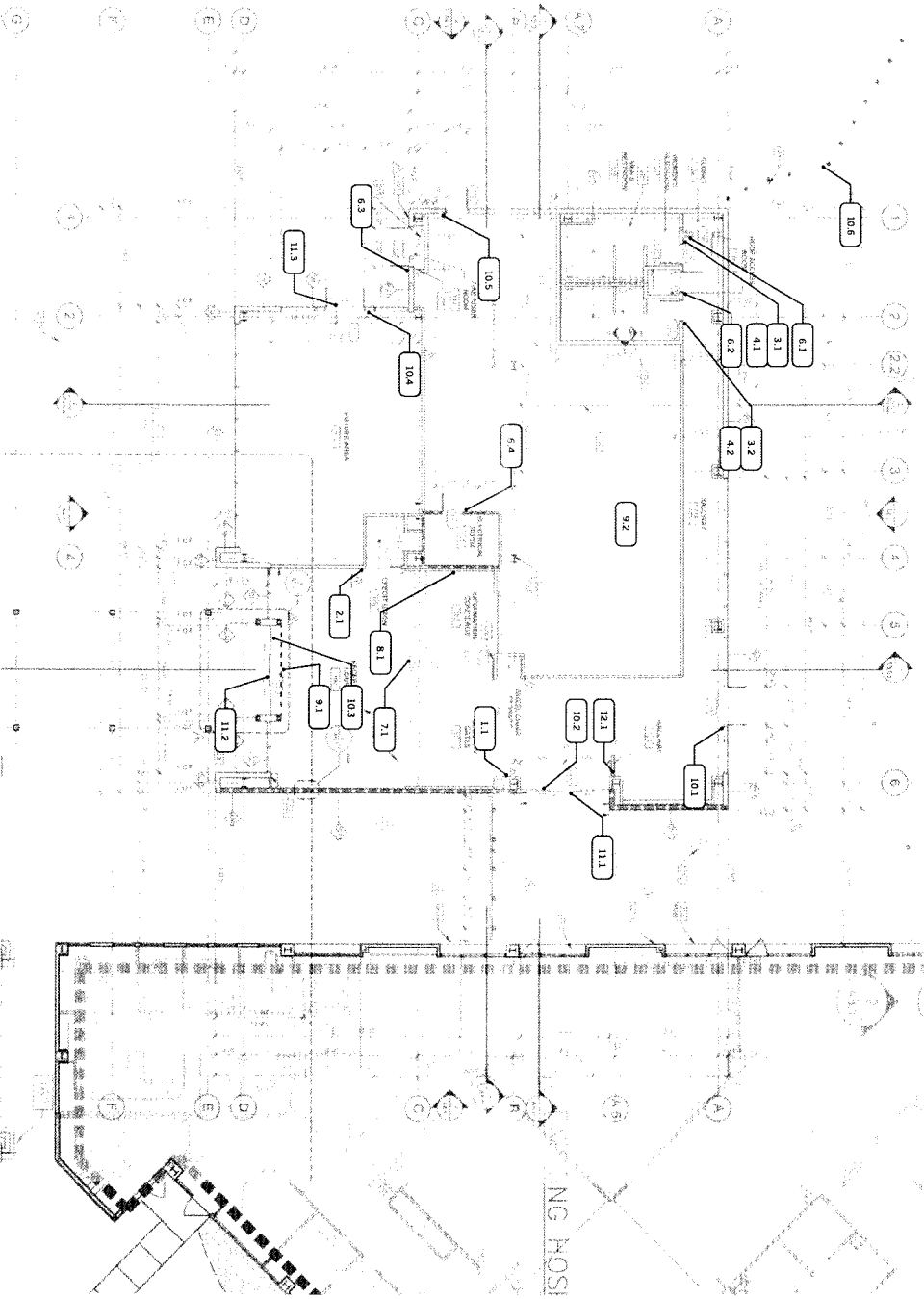
(b) Automobile Liability

Bodily Injured and Property Damage	\$1,000,000	per accident
Hired and Non-Owned Automobiles	\$1,000,000	

(c) Workers Compensation

Workers Compensation:	STATUTORY	
Employer's Liability:	\$1,000,000	per employee, Bodily injury by disease
	\$1,000,000	policy limit, Bodily injury by disease
	\$1,000,000	per employee, bodily injury by accident
Umbrella Liability	\$5,000,000	any one occurrence:
	\$5,000,000	annual aggregate

EXHIBIT F



KEY NOTES - PAVILION SIGNAGE

1	DIRECTIONAL - SMALL	1
2	AREA IDENTIFICATION SIGN	3*
3	RESTROOM - DOOR SIGN	2
4	RESTROOM - WALL SIGN	2
5	RESTROOM IDENTIFICATION SIGN	2*
6	MISC ROOM IDENTIFICATION SIGN	4
7	MISC IDENTIFICATION SIGN	1
8	LOGO SIGN	1
9	MAX OCCUPANCY SIGN	2*
10	EXIT SIGN	6
11	ENTRY GRAPHICS	3
12	VENDOR SIGN	1

*EXACT LOCATION TBD

LEGEND

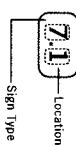
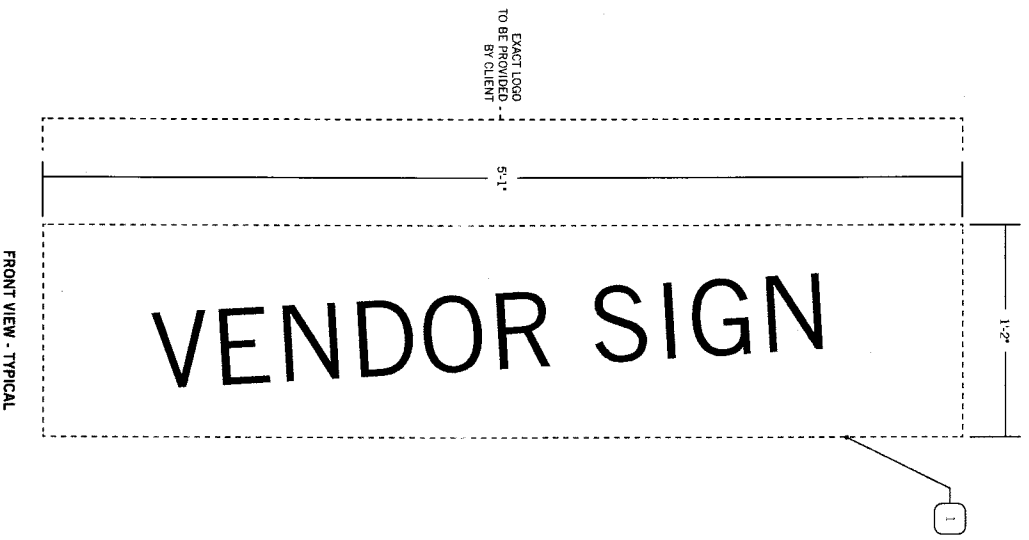


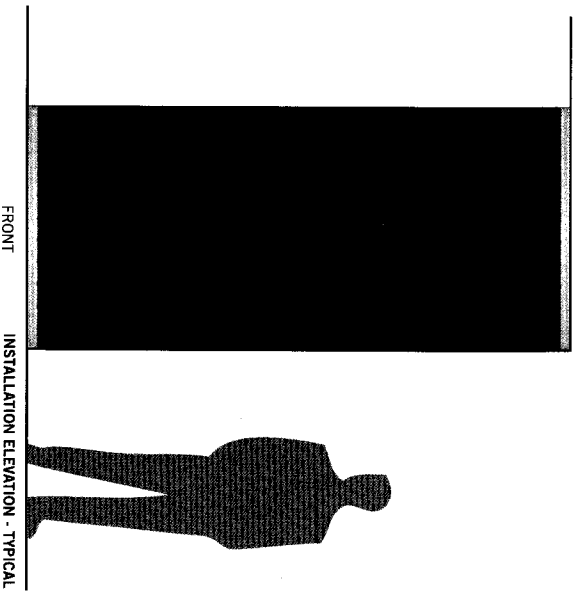
EXHIBIT F



FRONT VIEW - TYPICAL

DETAIL VIEWS - TYPICAL
SCALE 1/2"=1'-0"

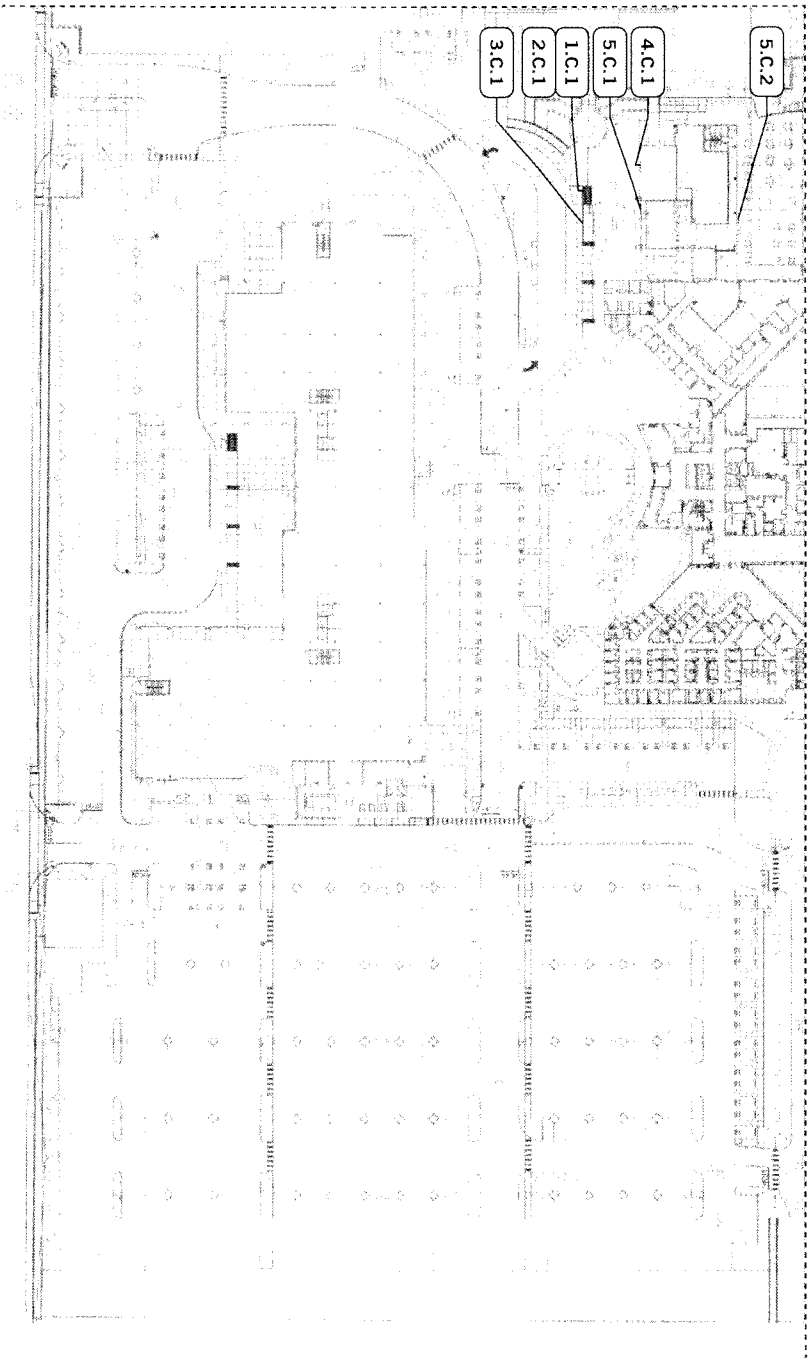
- KEYNOTES**
- 1 FABRICATED ALUMINUM, DIMENSIONAL SIGN, TO MATCH VENDOR BRAND STANDARDS.



This conceptual design is based upon a preliminary review of entitlement requirements and on unverified and possibly incomplete site and/or building information, and is intended merely to assist in exploring how the project might be developed. Signage shown is for illustrative purposes only and does not necessarily reflect municipal code compliance.

RUHS - PAVILION INTERIOR SIGNAGE - BID DOCUMENT
MORENO VALLEY, CA - IRV16-3018-02

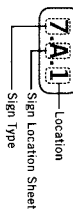
EXHIBIT F



KEY NOTES - PAVILLION SIGNAGE

1	Project Logo Sign	1
2	Donor On-Building Sign	1
3	Entry Canopy Sign	1
4	Address Sign	1
5	Vendor On-Building Sign	2

LEGEND



This conceptual design is based upon a preliminary review of entitlement requirements and on unverified and possibly incomplete site and/or building information, and is intended merely to assist in exploring how the project might be developed. Signage shown is for illustrative purposes only and does not necessarily reflect municipal code compliance.

SITE PLAN SECTION C
 RUIIS - PAVILLION EXTERIOR SIGNAGE - BID DOCUMENT
 MORENO VALLEY, CA - RV16-3018-02

WARE MALCOMB
 04.24.2019

