

**OFFICE LEASE**

**between**

**MARINA COAST WATER DISTRICT**

**Landlord**

**and**

**FORT ORD REUSE AUTHORITY**

**Tenant**

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## OFFICE LEASE SUMMARY

Effective Date of Lease: \_\_\_\_\_, 2009

Landlord: Marina Coast Water District

Tenant: Fort Ord Reuse Authority

Premises: Approximately 8,809 square feet of office space in the Imjin Office Park located at the northeast corner of Imjin Parkway and Second Avenue in the city of Marina, California.

Term Commencement: Lease will commence when certificate of occupancy is delivered to Tenant.

Lease Expiration: Midnight on the last day of the 57<sup>th</sup> full month following the delivery of the certificate of occupancy to the tenant.

Rent: See Article 6 and Article 7 of the Lease.

Tenant's Address for Notices: Michael A. Houlemard, Jr., Executive Officer, Fort Ord Reuse Authority, 100 12th Street, Building 2880, Marina, CA 93933

Landlord's Address for Notices: General Manager, Marina Coast Water District, 15 Reservation Road, Marina, CA 93933-2099

Exhibit(s):

Exhibit A -- Diagram of Land and Premises

Exhibit B -- Schedule of Tenant Improvements (described in the current building plans prepared by the Paul Davis Partnership -- sheets A, S, M, P, & FA)

## OFFICE LEASE

THIS OFFICE LEASE ("Lease") is made effective as of \_\_\_\_\_, 2009 ("Effective Date") by and between FORT ORD REUSE AUTHORITY, a California public agency ("Tenant"), and MARINA COAST WATER DISTRICT, a California public agency ("Landlord").

For good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

### ARTICLE I. DEFINITIONS

As used in this Lease, the following terms shall be defined as follows:

- 1.1 "Additional Rent" is defined in Article 7;
- 1.2 "Alterations" is defined in Section 13.1;
- 1.3 "Claims" is defined in Section 15.2.2;
- 1.4 "Common Area" is defined Section 7.3;
- 1.5 "Default" is described in Article 22;
- 1.6 "Environmental Laws" is defined Section 11.6;
- 1.7 "Hazardous Materials" is defined in Section 11.5;
- 1.8 "Land" is defined in Article 3;
- 1.9 "Land Value" is defined in Section 6.2;
- 1.10 "Landlord is defined in the preamble;
- 1.11 "Landlord's Parties" is defined in Section 15.1;
- 1.12 "Laws and Orders" is defined in Section 10.1;
- 1.13 "Lease" is defined in the preamble;
- 1.14 "Lease Term" is defined in Section 5.1;
- 1.15 "Premises" is defined in Section 1.23;
- 1.16 "Promissory Note" is defined in Section 6.3;
- 1.17 "Purchase Agreement" is defined in Article 3;



- 1.18 "Rent" is defined in Section 6.1;
- 1.19 "Rental Value" is defined in Section 6.1;
- 1.20 "Tenant" is defined in the preamble;
- 1.21 "Tenant Improvements" is defined in Article 4;
- 1.22 "Tenant's Parties" is defined in Section 15.1; and
- 1.23 "Tenant's Share" is defined in Section 7.3.

## ARTICLE 2. PREMISES

Landlord leases to Tenant and Tenant rents from Landlord approximately 8,809 Square Feet of Class "A" Office space in the Imjin Office Park located at the northeast corner of Imjin Parkway and Second Avenue and herein referred to as the "Premises." The Premises is shown on a diagram attached to this Lease as **Exhibit "A."**

## ARTICLE 3. ACQUISITION OF PROPERTY

Landlord does not own the real property on which the Premises are to be constructed. Tenant, as seller, and Landlord, as purchaser, will concurrently with the execution of this Lease, enter into a Purchase and Sale Agreement ("Purchase Agreement") for the sale and purchase of the real property described in the Purchase Agreement ("Land").

This Lease and the Purchase Agreement are integrated and contain mutually dependent provisions.

The Land is shown on a diagram attached to this Lease as **Exhibit "A."** Tenant acknowledges receipt of a copy of the Purchase Agreement. Landlord's obligations under this Lease are conditioned on the acquisition of the Land by Landlord. If Landlord does not acquire the Land, this Lease shall be of no further force or effect except for any provisions herein that specifically survive the termination of this Lease.

## ARTICLE 4. TENANT IMPROVEMENTS

Tenant Improvements will be provided by Landlord as set forth in the schedule which is attached hereto as **Exhibit "B."**

## ARTICLE 5. LEASE TERM

5.1 Lease Term. The provisions of this Lease shall be effective as of the date of this Lease. The term of this Lease ("Lease Term") shall commence on date that a certificate of occupancy for the Premises is delivered to Tenant, and shall terminate on midnight of the last day of the fifty-seventh (57<sup>th</sup>) full month following close of escrow.

## ARTICLE 6. RENT, RENTAL VALUE AND LAND VALUE

6.1 Monthly Rent. Monthly rent for the initial Lease Term, as determined by a current, independent appraisal, shall be One Dollar Seventy Cents (\$1.70) per square foot ("Rent/Rental Value").

6.2 Land Value. The "Land Value" as determined by a current, independent appraisal is Nine Hundred Eighty-eight Thousand Dollars (\$988,000.00).

6.3 Contribution of Land in lieu of Rent. The parties will exchange land for rent as provided in this Section. Landlord will credit the Land Value against the \$1.70 per square foot per month Rental Value for the initial Lease Term, such that Tenant's payment of Rental Value will be off-set by the value of the land conveyed by Tenant to Landlord under the Purchase Agreement. Landlord will pay to Tenant the difference between the Land Value and the Rental Value by a promissory note as provided in the Purchase and Sale Agreement "Promissory Note." Tenant will pay to Landlord any rent in addition to Rental Value.

6.4 Payment of Rent. Payments of Rent in addition to Rental Value, if any, are due and payable in advance on the first day of each month. Unpaid rent will not accrue interest.

## ARTICLE 7. ADDITIONAL RENT

In addition to the Rent, Tenant shall be responsible for and shall pay before delinquency as additional rent ("Additional Rent") the following:

7.1 Real Estate Taxes. All real estate taxes and assessments levied or assessed against the leased Premises during the Lease Term and any extension of the Lease Term. Tenant shall pay Landlord the taxes attributable to Tenant within ten (10) days after receipt of a written statement setting forth the taxes applicable to Tenant property; and

7.2 Occupancy Costs. All costs of occupying, maintaining and operating the Premises, including, but not limited to, sewer and garbage services to the Premises.

7.3 Common Area Maintenance. Tenant shall pay Tenant's Share of the Common Area maintenance costs. "Tenant's Share" shall be 8,809/15,001. The "Common Area" shall include all areas of the Land and facilities located outside the Premises that are made available for the general use of Tenant and other tenants of the office building, including, but not limited to, parking areas, driveways, walkways, common restrooms and hallways, and landscape areas. "Common Area maintenance costs" shall include, but not be limited to, the reasonable actual costs of the maintenance, management, operation, repair and replacement of Common Area facilities, including, but not limited to, expenses for general maintenance and repairs, resurfacing, painting, restriping, cleaning, sweeping and janitorial services, planting and landscaping, lighting, water and other utilities, maintenance and repair and replacement of common signage, directional signs and markers and bumpers, removal of rubbish, trash, garbage and other refuse from the Common Area, maintenance, operation, repair and replacement of all common use heating, ventilation and air conditioning, electrical, plumbing and other equipment

and facilities, public liability and personal property damage insurance covering the Common Areas, and the cost of personnel to implement such services and to inspect the common facilities.

On the Lease Term and on the first day of each month during the Term, Tenant shall pay in advance one-twelfth (1/12) of the amount Landlord reasonably estimates to be the monthly Common Area maintenance costs. Landlord shall furnish to Tenant a statement showing the total Common Area maintenance costs for each calendar lease year and the payments made by Tenant with respect to the calendar lease year in question within a reasonable period of time after the end of each calendar lease year. If the Common Area maintenance costs for the calendar lease year exceeded the payments made by Tenant, Tenant shall pay to Landlord the deficiency within ten (10) days after receipt of the statement. If Tenant's payments made during the calendar lease year exceeded the Common Area maintenance costs, Landlord shall apply the excess to the next monthly advance payment due from Tenant, except upon expiration of the Term, Landlord shall pay Tenant any excess.

As between Landlord and Tenant, Landlord shall have the right to exercise exclusive control and management over the Common Area which will be reasonably exercised by Landlord. Landlord reserves the right from time to time to make changes to the size, shape, location, number, nature and use of the services, land and improvements constituting the Common Area, or convert such area into leasable areas. Any additional land so designated by Landlord shall be included in the Common Area until such designation is revoked by Landlord. Tenant acknowledges that such activities and changes are permitted and may result in some inconvenience to Tenant. All of such activities and changes are permitted as long as they do not materially affect Tenant's use of the Premises.

7.4 Utilities. Tenant shall be responsible for payment of all utilities which are separately metered to the Premises. If permitted by law, Tenant, without Landlord's consent, shall have the right at any time and from time to time during the term or any extensions to contract and pay for services from a different company or companies providing utility service (including but not limited to electric, water, sewer, heat and waste or trash removal) for said Premises; and

7.5 Personal Property Taxes. Tenant shall pay prior to delinquency all taxes, if any, assessed against and levied upon Tenant owned alterations, utility installations, trade fixtures, furnishings, equipment and all personal property of Tenant contained in the Premises or elsewhere. When possible, Tenant shall cause its trade fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Landlord. If any of Tenant's said personal property shall be assessed with Landlord's real property, Tenant shall pay Landlord the taxes attributable to Tenant within ten (10) days after receipt of a written statement setting forth the taxes applicable to Tenant property.

## ARTICLE 8. SECURITY DEPOSIT

8.1 Security Deposit. Tenant shall not be required to provide a deposit.

## ARTICLE 9. USE

9.1 Permitted Use. Tenant shall use and occupy the Premises solely for the purpose of professional offices and meeting rooms, and for no other purpose without the prior written consent of Landlord. Tenant shall not use or occupy, or permit the Premises to be used or occupied, for any other purpose without Landlord's prior written consent, which shall not be unreasonably withheld or delayed.

9.2 Rules and Regulations. Tenant shall comply with the rules and regulations, and any reasonable amendments or additions, promulgated by Landlord from time to time for the safety, care, and cleanliness of the Premises or for the preservation of good order ("Rules and Regulations").

9.3 Additional Restrictions on Use. In addition to complying with other provisions of this Lease concerning use of the Premises:

9.3.1 Tenant shall not use or knowingly allow any person to use the Premises for any purpose that is contrary to the Rules and Regulations, that violates any Laws and Orders, that constitutes waste or nuisance, or that would unreasonably annoy other occupants of the Premises or the owners or occupants of buildings adjacent to the Premises; and

9.3.2 Tenant shall not use or knowingly allow any person to use the Premises for any purpose that violates any recorded covenants, conditions, and restrictions that now or later affect the Land of which Landlord has informed Tenant as long as Landlord does not modify, amend, or enter into any covenants, conditions, or restrictions that contravene the provisions of this Lease or that otherwise adversely affect Tenant's use of the Premises or the conduct of its business on the Premises. Landlord represents that it has provided Tenant with a copy of all other recorded covenants, conditions, or restrictions affecting the Land as of the date of this Lease of which Landlord has knowledge. Landlord represents and warrants that there are no known violations of any of those covenants, conditions, or restrictions that would adversely and materially affect Tenant's use and occupancy of the Premises.

## ARTICLE 10. COMPLIANCE WITH LAWS

10.1 Definition of Laws and Orders. For purposes of this Lease, the term "Laws and Orders" includes all federal, state, county, city, or government agency laws, statutes, ordinances, standards, rules, requirements, or orders now in force or hereafter enacted, promulgated, or issued. The term also includes government measures regulating or enforcing public access or occupational or health or safety standards for employers, employees, landlords, or tenants.

10.2 Repairs, Replacements, Alterations, and Improvements. Tenant shall continuously and without exception repair and maintain the Premises, including Tenant Improvements, Alterations, fixtures, and furnishings, in an order and condition in compliance with all Laws and Orders. Tenant, at Tenant's sole expense, shall promptly make all repairs, replacements, alterations, or improvements needed to comply with all Laws and Orders to the extent that the Laws and Orders relate to or are triggered by (a) Tenant's particular use of the

Premises, (b) the Tenant Improvements located in the Premises, or (c) any Alterations located in the Premises.

10.3 Collateral Estoppel. The judgment of any court of competent jurisdiction, or the admission of Tenant in any judicial or administrative action or proceeding that Tenant has violated any Laws and Orders shall be conclusive, between Landlord and Tenant, of that fact, whether or not Landlord is a party to that action or proceeding.

## ARTICLE 11. HAZARDOUS MATERIAL

11.1 Use of Hazardous Material. Tenant shall not cause or permit any Hazardous Material, as defined in Section 11.5, to be generated, brought onto, used, stored, or disposed of in or about the Premises by Tenant or its agents, employees, contractors, subtenants, or invitees, except for such substances that are required in the ordinary course of Tenant's business conducted on the Premises or are otherwise approved by Landlord. Tenant shall:

11.1.1 Use, store, and dispose of all such Hazardous Material in strict compliance with all applicable statutes, ordinances, and regulations in effect during the Lease Term that relate to public health and safety and protection of the environment (Environmental Laws), including those Environmental Laws identified in Section 11.6; and

11.1.2 Comply at all times during the Lease Term with all Environmental Laws.

11.2 Notice of Release or Investigation. If, during the Lease Term (including any extensions), either Landlord or Tenant becomes aware of (a) any actual or threatened release of any Hazardous Material on, under, or about the Premises or (b) any inquiry, investigation, proceeding, or claim by any government agency or other person regarding the presence of Hazardous Material on, under, or about the Premises, that party shall give the other party written notice of the release or investigation within five (5) days after learning of it and shall simultaneously furnish to the other party copies of any claims, notices of violation, reports, or other writings received by the party providing notice that concern the release or investigation.

11.3 Indemnification. Landlord and Tenant shall, at that party's sole expense and with counsel reasonably acceptable to the other party, indemnify, defend, and hold harmless the other party and the other party's shareholders, directors, officers, employees, partners, affiliates, and agents with respect to all losses arising out of or resulting from the release of any Hazardous Material in or about the Premises or the violation of any Environmental Law, by that party or that party's agents, contractors, or invitees. This indemnification includes all losses, liabilities, obligations, penalties, fines, claims, actions (including remedial or enforcement actions of any kind and administrative or judicial proceedings, orders, or judgments), damages (including consequential and punitive damages), and costs (including attorney, consultant, and expert fees and expenses) resulting from the release or violation. This indemnification shall survive the expiration or termination of this Lease.

11.4 Remediation Obligations. If the presence of any Hazardous Material brought onto the Premises by either Landlord or Tenant or by Landlord's or Tenant's employees, agents,

contractors, or invitees results in contamination of the Premises, that party shall promptly take all necessary actions, at the party's sole expense, to return the Premises or the Premises to the condition that existed before the introduction of such Hazardous Material. The remediating party shall first obtain the other party's approval of the proposed remedial action, which may not be unreasonably withheld or delayed. This provision does not limit the indemnification obligations set forth in Section 11.3. The costs of any Hazardous Material cleanup or remediation undertaken by Landlord during the Lease Term shall be borne by Landlord and shall not be included in Common Area maintenance costs under Section 7.3.

11.5 Definition of Hazardous Material. As used in this Article 11, the term "Hazardous Material" shall mean any hazardous or toxic substance, material, or waste that is or becomes regulated by the United States, the State of California, or any local government authority having jurisdiction over the Premises. Hazardous Material includes:

11.5.1 Any "hazardous substance," as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 United States Code sections 9601-9675);

11.5.2 "Hazardous waste," as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA) (42 United States Code sections 6901-6992k);

11.5.3 Radioactive material, including any source, special nuclear, or byproduct material as defined in 42 United States Code sections 2011-2297g-4;

11.5.4 Any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standards of conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereafter in effect);

11.5.5 Petroleum products;

11.5.6 Asbestos in any form or condition; and

11.5.7 Polychlorinated biphenyls (PCBs) and substances or compounds containing PCBs.

11.6 Definition of Environmental Laws. As used in this Lease, the term "Environmental Law" shall mean all federal, state, or local laws, rules, regulations, ordinance, or requirements (including consent decrees and administrative orders) concerning Hazardous Materials, now or hereafter in effect.

11.7 Obligations Prior Landlord's Ownership. With respect to Hazardous Materials located on or beneath the Land prior to the date Landlord acquired the Land, the parties agree that any clean up costs shall be covered by Tenant's Pollution Legal Liability policy, limited to policy limits, as provided in the Purchase Agreement.

## ARTICLE 12. REPAIRS AND MAINTENANCE

12.1 Landlord's Repair and Maintenance Obligations. Landlord shall be responsible for the maintenance and repair of the exterior shell of the building, including the roof, exterior electrical and plumbing systems, walls and paved areas surrounding the building. Landlord shall also maintain all exterior landscaping. Repairs shall be made promptly when appropriate to keep the applicable portion of the Premises, and other items in the condition described in this clause. Landlord shall not be in default of its repair and maintenance obligations under this Section 12.1 if Landlord performs the repairs and maintenance within thirty (30) days after written notice by Tenant to Landlord of the need for such repairs and maintenance. If, due to the nature of the particular repair or maintenance obligation, more than thirty (30) days are reasonably required to complete it, Landlord shall not be in default under this Section 12.1 if Landlord begins work within this thirty-day (30-day) period and diligently prosecutes this work to completion. Except as provided herein, no abatement of rent and no liability of Landlord shall result for any injury to or interference with Tenant's business arising from the making of or failure to make any repairs, replacements, alterations, or improvements in or to any portion of the Premises, fixtures, appurtenances, or equipment.

12.2 Tenant's Repair and Maintenance Obligations. Tenant is responsible for the maintenance and repair of the interior portion of the building, including glass windows, interior plumbing and electrical systems, heating ventilation and air conditioning systems serving only the Premises, and all interior surfaces. Tenant shall at Tenant's own cost and expense maintain the interior portion of the Premises in good and sanitary order, condition and repair. If Landlord makes repairs due to Tenant's failure to do so as provided for in this Section 12.2, within thirty (30) days after a written demand from Landlord (including a reasonably particularized statement), Tenant shall pay Landlord Landlord's reasonable, actual, out-of-pocket costs incurred in connection with the repairs and maintenance plus interest at the interest rate described in Section 23.2 from the date these costs are incurred until the date of Tenant's repayment. If either party breaches this Lease, the non-breaching party may perform the breaching party's obligation. Within thirty (30) days after written demand by the non-breaching party, (including a reasonably particularized statement), the breaching party must pay the performing party's reasonable costs incurred in connection with such performance.

## ARTICLE 13. ALTERATIONS AND ADDITIONS

13.1 Landlord's Consent to Alterations. Tenant may not make any improvements, alterations, additions, or changes to the Premises ("Alterations") without obtaining Landlord's prior written consent.

13.1.1 Costs of Review. If it is reasonably necessary for Landlord to obtain the assistance of architects, engineers, or other consultants to evaluate the proposed Alterations, Tenant shall reimburse Landlord for amounts paid by Landlord for the reasonable fees and costs of those consultants in reviewing the proposed Alterations.

13.1.2 Removal of Alterations. When Tenant requests Landlord's consent to a proposed Alteration, Tenant may ask Landlord in writing whether Landlord will require that the

Alteration be removed on expiration or earlier termination of the Lease Term. Landlord shall respond to this inquiry in writing within fifteen (15) days. If Landlord states in its response that it will not require removal, Tenant shall not be required to remove this Alteration.

13.2 Compliance of Alterations with Laws and Insurance Requirements. Tenant shall cause all Alterations to comply with the following:

13.2.1 Applicable Laws and Orders; or

13.2.2 Applicable requirements of a fire-rating bureau.

Tenant shall also comply with those requirements in the course of constructing the Alterations. Before beginning construction of any Alteration, Tenant shall obtain a valid building permit and any other permits that may be required by any government entity having jurisdiction over the Premises. Tenant shall provide copies of those permits to Landlord before the work begins.

13.3 Manner of Construction. Tenant shall build Alterations entirely within the Premises and in conformance with Landlord's construction rules and regulations, using only contractors and subcontractors approved in writing by Landlord. Tenant will pay prevailing wages for all construction work. The contracts shall provide that the work and scope provisions of the applicable collective bargaining agreement of each union will be explicitly observed. All work relating to any Alterations shall be done in a good and workmanlike manner, using new materials equivalent in quality to those used in the construction of the initial improvements to the Premises. All work shall be diligently prosecuted to completion.

13.4 Landlord's Property. Tenant may remove any Alterations, improvements, signs, fixtures, or equipment that it installs or places in, on, or about the Premises from time to time. Tenant must repair any damage to the Premises caused by that removal.

#### ARTICLE 14. COVENANT AGAINST LIENS

14.1 Covenant Against Liens. Tenant shall not be the cause of any liens or allow such liens to exist, attach to, be placed on, or encumber Landlord's or Tenant's interest in the Premises, or Land by operation of law or otherwise. Tenant shall not suffer or permit any lien of mechanics, material suppliers, or others to be placed against the Premises, with respect to work or services performed or claimed to have been performed for Tenant or materials furnished or claimed to have been furnished to Tenant or to the Premises on behalf of or for the benefit of Tenant. Landlord has the right at all times to post and keep posted on the Premises any notice that it considers necessary for protection from such liens.

If any such lien attaches or Tenant receives notice of any such lien, Tenant shall cause the lien to be released and removed of record within ten (10) days after Landlord's demand. Despite any other provision of this Lease, if the lien is not released and removed within ten (10) days after Landlord delivers notice of the lien to Tenant, Landlord may immediately take all action necessary to release and remove the lien, without any duty to investigate the validity of it, unless Tenant has commenced legal action to contest, dispute, or defend the claims of the lienholders and the validity



of the liens and continues to prosecute this action to a successful judgment releasing the lienholder's lien against Tenant's or Landlord's interest in the Premises. All expenses (including reasonable attorney fees) incurred by Landlord in connection with release of the lien shall be considered Additional Rent under this Lease and be immediately due and payable by Tenant.

## ARTICLE 15. EXCULPATION, INDEMNIFICATION AND INSURANCE

15.1 Definition of Tenant Parties and Landlord Parties. For purposes of this Lease, the term "Tenant Parties" refers singularly and collectively to Tenant and Tenant's officers, directors, shareholders, partners, trustees, members, agents, employees, and independent contractors as well as to all persons and entities claiming through any of these persons or entities. The term "Landlord Parties" refers singularly and collectively to Landlord, Landlord's manager and their respective trustees, officers, directors, shareholders, partners, members, agents, employees, and independent contractors as well as to all persons and entities claiming through any of these persons or entities.

### 15.2 Indemnification.

15.2.1 Tenant's Indemnification of Landlord Parties. To the fullest extent permitted by law but subject to this Section 15.2, Tenant shall, at Tenant's sole expense and with counsel reasonably acceptable to Landlord, indemnify, defend, and hold harmless Landlord Parties from and against all Claims, as defined in subsection 15.2.2, from any cause arising out of or relating (directly or indirectly) to this Lease, the tenancy created under this Lease, or the Premises, including:

15.2.1.1 The use or occupancy, or manner of use or occupancy, of the Premises by Tenant Parties;

15.2.1.2 Any act, error, omission, or negligence of Tenant Parties in, on, or about the Land;

15.2.1.3 Tenant's conducting of its business;

15.2.1.4 Any alterations, activities, work, or things done, omitted, or permitted by Tenant Parties in, at, or about the Premises, including the violation of or failure to comply with any applicable laws, statutes, ordinances, standards, rules, regulations, orders, decrees, or judgments in existence on the commencement of the Lease Term or enacted, promulgated, or issued after the date of this Lease, except to the extent that compliance with such legal requirements is expressly made the responsibility of Landlord in Article 10, Article 12, or Article 16; and

15.2.1.5 Any breach or default in performance of any obligation on Tenant's part to be performed under this Lease.

15.2.2 Definition of Claims. For purposes of this Lease, "Claims" means any and all claims, losses, costs, damage, expenses, liabilities, liens, actions, causes of action

(whether in tort or contract, law or equity, or otherwise), charges, assessments, fines, and penalties of any kind (including consultant and expert expenses, court costs, and attorney fees actually incurred).

15.2.3 Type of Injury or Loss. This indemnification extends to and includes Claims for:

15.2.3.1 Injury to any persons (including death at any time resulting from that injury);

15.2.3.2 Loss of, injury or damage to, or destruction of tangible property (including all loss of use resulting from that loss, injury, damage, or destruction); and

15.2.3.3 Economic losses and consequential or resulting damage, but only to the extent incurred by Landlord in connection with (1) a holdover of the Premises by Tenant after the expiration or earlier termination of this Lease or (2) any repair, physical construction, or work of improvement performed by or on behalf of Tenant in the Premises.).

15.2.4 Relationship of Indemnity to Other Lease Obligations. Tenant's agreement to indemnify Landlord and Landlord's agreement to indemnify Tenant under this Article 15 are not intended to and shall not:

15.2.4.1 Restrict, limit, or modify the parties' respective insurance and other obligations under this Lease, such indemnity covenants being independent of the parties' insurance and other obligations;

15.2.4.2 Be restricted, limited, or modified by the parties' compliance with their respective insurance requirements and other obligations under this Lease;

15.2.4.3 Relieve any insurance carrier of its obligations under policies required to be carried under this Lease, to the extent that such policies cover, or if carried would have covered, the matters subject to the parties' respective indemnification obligations; or

15.2.4.4 Supersede any inconsistent agreement of the parties set forth in any other provision of this Lease.

15.2.5 Attorney Fees. The prevailing party shall be entitled to recover its actual attorney fees, expert's fees and court costs incurred in enforcing the indemnification clauses set forth in this Section 15.2.

15.2.6 Survival of Indemnification. The clauses of this Section 15.2 shall survive the expiration or earlier termination of this Lease for a period of three (3) years but only to the extent that the Claims are covered and actually paid by the indemnifying party's insurance coverage.

15.2.7 Landlord's Indemnification of Tenant. Because Landlord is required to maintain insurance on the Premises and Tenant compensates Landlord for such insurance as part

of Tenant's Share of Common Area maintenance costs and because of the waivers of subrogation in Section 15.8, Landlord shall, with counsel reasonably acceptable to Tenant, indemnify, defend, and hold harmless Tenant Parties from and against all Claims for damage to property outside the Premises to the extent that such Claims are covered by such insurance (or would have been covered had Landlord carried the insurance required under this Lease), even if resulting from the negligent acts or omissions. In addition, Landlord shall, with counsel reasonably acceptable to Tenant, indemnify, defend, and hold harmless Tenant Parties from and against all Claims resulting from the negligent acts, omissions, or willful misconduct of Landlord Parties in connection with Landlord Parties' activities in, on, or about the Premises, except to the extent that such Claim is for damage to the Tenant Improvements and Tenant's personal property, fixtures, furniture, and equipment in the Premises and is covered by insurance that Tenant is required to obtain under this Lease (or would have been covered had Tenant carried the insurance required under this Lease).

15.3 Tenant's Insurance Coverage. Tenant shall, at Tenant's sole expense, maintain the coverages set forth in this Section 15.3.

15.3.1 Tenant's Personal Property. Tenant shall at all times during the term of this Lease and at Tenant's sole expense, keep all of Tenant's personal property, including trade fixtures and equipment and all merchandise of Tenant that may be in the Premises from time to time, insured against loss or damage by fire and by any peril included within fire and extended coverage insurance for an amount that will insure the ability of Tenant to fully replace the trade fixtures, equipment, and merchandise; and

15.3.2 Commercial General Liability Insurance. Commercial general liability insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) general aggregate limit insuring against the liability of Tenant and its authorized representatives arising out of and in connection with Tenant's use, occupancy and maintenance of and access to the Premises and any Common Areas, including automobile bodily injury and property damage liability insurance providing coverage for all owned, hired and non-owned automobiles. The policies shall be written to provide insurance on an "occurrence" and not "claims made" basis and shall name Landlord as additional named insured by endorsement acceptable to Landlord.

15.3.3 Workers' Compensation Insurance. Tenant shall maintain in effect throughout the term of this Lease, at Tenant's sole expense, Workers' Compensation insurance in accordance with the laws of California, and employers' liability insurance with a limit of not less than \$1,000,000 per employee and \$ 1,000,000 per occurrence.

15.4 Cancellation Clause. Any policy of insurance, required under this Article, shall be written by insurance companies authorized to do business in California or by a governmental agency insurance pool recognized by and in good standing with the State of California. Each policy of insurance procured by Tenant pursuant to this Article shall expressly provide that it cannot be canceled for any reason or altered in any manner unless at least 10 days' prior written notice has been given by the insurance company issuing the policy to Landlord in the manner specified in this Lease for service of notices on Landlord by Tenant.

15.5 Deposit of Insurance Policies with Landlord. Promptly on the issuance, re-issuance, or renewal of any insurance policy required by this Lease, including fire and liability insurance policies, Tenant shall cause a duplicate copy of the policy or a certificate evidencing the policy and executed by the insurance company issuing the policy or its authorized agent or equivalent evidence of Tenant's participation in an insurance pool to be given to Landlord.

15.6 Blanket Insurance Policy. Tenant may satisfy its obligations under this Article by maintaining a blanket policy of insurance including the Premises, provided the blanket policy does not diminish the amount or coverage of the insurance required under this Article, and further provided that the blanket policy otherwise meets all requirements of this Article.

15.7 Landlord's Right to Procure Insurance. If Tenant fails to procure or maintain the insurance required by this Article, Landlord may obtain that insurance and pay the premiums on it for the benefit of Tenant. Any amounts paid by Landlord to procure or maintain insurance pursuant to this Section shall be immediately due and repayable to Landlord by Tenant with the next then due installment of rent under this Lease; failure to repay at that time any amount expended by Landlord shall be considered the same as a failure to pay rent and a default by Tenant under this Lease.

15.8 Waiver of Subrogation. Landlord and Tenant agree to cause the insurance companies issuing their respective property (first party) insurance to waive any subrogation rights that those companies may have against Tenant or Landlord, respectively, as long as the insurance is not invalidated by the waiver. If the waivers of subrogation are contained in their respective insurance policies, Landlord and Tenant waive any right that either may have against the other on account of any loss or damage to their respective property to the extent that the loss or damage is insured under their respective insurance policies.

15.9 Landlord's Property Insurance. Landlord shall procure and maintain during the Lease Term the following first party insurance coverages or equivalent participation in a government agency insurance pool: Special causes-of-loss direct damage coverage. Such coverages shall be in such amounts, from such companies, and on such other terms and conditions as Landlord may from time to time reasonably determine. At Landlord's option, such insurance coverage may include the risks of earthquakes, flood damage, or other perils; business income (rental loss) and extra expense coverage; and loss payee endorsements in favor of the holders of any mortgages or deeds of trust encumbering the interest of Landlord in the Premises or the ground or underlying lessors of all or part of the Premises. Despite the provisions of this Section 15.9, the coverage and amounts of insurance carried by Landlord in connection with the Premises shall at a minimum be comparable to the coverage and amounts of insurance that are carried by reasonably prudent landlords of comparable buildings and workers' compensation coverage as required by applicable law. On inquiry by Tenant from time to time, Landlord shall inform Tenant of all such insurance carried by Landlord.

## ARTICLE 16. DAMAGE AND DESTRUCTION

16.1 Repair of Damage by Landlord. If the Premises is damaged by fire, the elements, unavoidable accident or other casualty, but are not thereby rendered untenable in whole, the

Premises shall be rendered untenable only in part, Landlord shall at its own expense cause the damage to be repaired promptly, and the Rent meanwhile shall be abated proportionately as to the portion of the Premises rendered untenable. If the Premises is rendered wholly untenable by reason of such occurrence, the Landlord shall at its own expense cause such damage to be repaired within ninety (90) days of said occurrence, and the Rent meanwhile shall be abated in whole, except that Landlord shall have the right, to be exercised by notice given to Tenant within ten (10) days after said occurrence, to elect not to reconstruct the destroyed Premises, and in such event this Lease and the tenancy hereby created shall cease as of the date of the said occurrence.

16.2 Damage Near End of Term. Despite any other provision of this Article 16, if the Premises is destroyed or damaged by a casualty during the last eighteen (18) months of the Lease Term, including option periods, Landlord and Tenant shall each have the option to terminate this Lease by giving written notice to the other of the exercise of that option within thirty (30) days after that damage or destruction.

16.3 Waiver of Statutory Provisions. The provisions of this Lease, including those in this Article 16, constitute an express agreement between Landlord and Tenant that applies in the event of any casualty to the Premises. Tenant, therefore, fully waives the provisions of any statute or regulation, including California Civil Code sections 1932(2) and 1933(4), for any rights or obligations concerning a casualty.

## ARTICLE 17. CONDEMNATION

If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (all of which are herein called "condemnation"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If more than twenty-five percent (25%) of the land area is taken by condemnation, Tenant may, at Tenant option to be exercised in writing within ten (10) days after Landlord shall have given Tenant written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession), terminate this Lease as of the date the condemning authority takes such possession. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in the same proportion as the land taken bears to the total land area of the Premises. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord, whether such award shall be made as compensation for diminution in value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Tenant shall be entitled to any compensation separately awarded to Tenant for Tenant relocation expenses and/or loss of Tenant trade fixtures.

## ARTICLE 18. ASSIGNMENT AND SUBLEASING

18.1 Prior Written Consent Required. Except as provided in this Article, subletting of any portion of the Premises, whether by operation of law or otherwise, without prior written consent of Landlord is void and shall be a breach of this Lease, and at the option of Landlord, shall terminate this Lease.

This lease is not assignable. Tenant shall not encumber, assign or otherwise transfer this Lease, any right or interest in this Lease, or any right or interest in the leased Premises or any of the improvements that may now or hereafter be constructed or installed on the leased Premises without the Landlord's prior written consent. Tenant, may however, assign this Lease to a successor agency that succeeds Tenant's authority by operation of law. Tenant shall not sublet the leased Premises or any part thereof or allow any other person other than Tenant's agents and employees to occupy the leased Premises or part thereof.

Neither this Lease nor the leasehold estate of Tenant shall be subject to involuntary assignment, transfer, or sale, or to assignment, transfer, or sale by operation of law in any manner whatsoever except as authorized in this Lease, and any such attempted involuntary assignment, transfer or sale shall be void.

## ARTICLE 19. SURRENDER OF PREMISES

19.1 Surrender of Premises. Upon the expiration or earlier termination of this Lease, Tenant shall surrender the Premises in clean and good condition, ordinary wear and tear accepted. Tenant shall have the right to remove from the Premises, and Landlord shall have the right to compel Tenant to remove, Tenant's furniture and other personal property and any fixtures and leasehold improvements which Tenant shall have installed at Tenant's expense. Tenant agrees to repair, at Tenant's expense, any damage to the Premises resulting from the removal or any such items, including, without limitation, repairing the floor and patching and painting the walls where reasonably required by Landlord. All locks or bolts, alterations or improvements affixed to or made upon the Premises by either of the parties hereto shall be and become property of Landlord, and shall be surrendered with the Premises as part thereof upon the termination of this Lease. Tenant's obligations under this Section shall survive the expiration or earlier termination of this Lease. Tenant shall indemnify Landlord from any claims resulting from delay by Tenant in so surrendering the Premises, including, without limitation, any claims made by any succeeding tenant founded on such delay.

## ARTICLE 20. HOLDING OVER

20.1 Holdover Rent. If Tenant remains in possession of the Premises after expiration or earlier termination of this Lease with Landlord's express written consent, Tenant's occupancy shall be a month-to-month tenancy at a rent agreed on by Landlord and Tenant but in no event less than the Base Rent and Additional Rent payable under this Lease during the last full month before the date of expiration or earlier termination of this Lease. The month-to-month tenancy shall be on the terms and conditions of this Lease except as provided in (a) the preceding sentence, and (b) the Lease clauses concerning lease term and extension rights, if any.

Landlord's acceptance of Rent or Additional Rent after such holding over with Landlord's written consent shall not result in any other tenancy or in a renewal of the original term of this Lease. If Tenant remains in possession of the Premises after expiration or earlier termination of this Lease without Landlord's consent, Tenant's continued possession shall be on the basis of a tenancy at sufferance and Tenant shall pay as rent during the holdover period an amount equal to the greater of:

20.1.1 One-hundred and fifty percent (150%) of the fair market rental (as reasonably determined by Landlord) for the Premises; or

20.1.2 Two-hundred percent (200%) of the Base Rent and Additional Rent payable under this Lease for the last full month before the date of expiration or termination.

## **ARTICLE 21. SUBORDINATION, NONDISTURBANCE AND ATTORNMENT**

The value of Tenant's contribution of land in lieu of rent is secured by the Land. The amount of Tenant's lien will decline over the Lease Term as Tenant's initial contribution is reduced by receipt of Tenant's right to possession under this Lease. Tenant's security interest is senior to all other liens against the Land. Tenant has recourse against the Land if Landlord defaults on its obligations under any of the agreements between Landlord and Tenant. This Lease is subordinate to any other, deed of trust, or other pledge of the Land as security for debt that Landlord may now or hereafter place upon the Land/Premises and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the Rent, Additional Rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated. If any mortgagee, trustee or ground landlord elects to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease is dated prior to or subsequent to the date of said mortgage, deed of trust or ground lease or the date of the recording thereof.

Tenant agrees to execute any documents necessary to effectuate an attornment, subordination, or to make this Lease prior to the lien of any mortgage, deed of trust or ground lease, as the case may be. If the Premises is sold in foreclosure sale or transfer in lieu of foreclosure, Tenant will attorn to the purchaser, transferee or landlord as the case may be, and recognize that party as Landlord under this Lease, provided such party acquires and accepts the Premises subject to this Lease.

## **ARTICLE 22. DEFAULTS AND REMEDIES**

22.1 Tenant's Default. The occurrence of any of the following shall constitute a default by Tenant under this Lease:

22.1.1 Tenant's failure to pay when due any Rent or Additional Rent required to be paid under this Lease if the failure continues for five (5) days;

22.1.2 Tenant's failure to perform any other obligation under this Lease if the failure continues for thirty (30) days after written notice of the failure from Landlord to Tenant.

If the required cure of the noticed default cannot be completed within thirty (30) days, Tenant's failure to perform shall constitute a default under the Lease unless Tenant undertakes to cure the failure within thirty (30) days and diligently and continuously attempts to complete the cure as soon as reasonably possible.

22.2 Replacement of Statutory Notice Requirements. When this Lease requires service of a notice, that notice shall replace rather than supplement any equivalent or similar statutory notice, including any notices required by Code of Civil Procedure section 1161 or any similar or successor statute.

22.3 Landlord's Remedies on Tenant's Default. If Tenant defaults, Landlord may terminate this Lease and recover possession of the Premises or seek any other remedy available at law or in equity. Once Landlord has terminated this Lease, Tenant shall immediately surrender the Premises to Landlord.

22.4 Efforts To Relet. For purposes of this Article 22, Tenant's right to possession shall not be considered to have been terminated by Landlord's efforts to relet the Premises, by Landlord's acts of maintenance or preservation with respect to the Premises, or by appointment of a receiver to protect Landlord's interests under this Lease. This list is merely illustrative of acts that may be performed by Landlord without terminating Tenant's right to possession.

22.5 Acceptance of Rent without Waiving Rights. Under Article 24, Landlord may accept Tenant's payments without waiving any rights under this Lease, including rights under a previously served notice of default. If Landlord accepts payments after serving a notice of default, Landlord may nevertheless commence and pursue an action to enforce rights and remedies under the previously served notice of default without giving Tenant any further notice or demand.

22.6 Tenant's Remedies on Landlord's Default. Landlord's failure to perform any of its obligations under this Lease shall constitute a default by Landlord under the Lease if the failure continues for thirty (30) days after written notice of the failure from Tenant to Landlord. If the required performance cannot be completed within thirty (30) days, Landlord's failure to perform shall constitute a default under the Lease unless Landlord undertakes to cure the failure within thirty (30) days and diligently and continuously attempts to complete this cure as soon as reasonably possible.

22.7 Removal of Tenant's Property. Whenever Landlord shall re-enter the Premises as provided in this Lease, any personal property of Tenant not removed by Tenant upon the expiration of the Lease Term, or within five (5) days after a termination by reason of Tenant's default as provided in this Lease, shall be deemed abandoned by Tenant and may be disposed of by Landlord in accordance with any governing laws in the State where the Land is located.

22.8 Waiver of Damages. Tenant hereby waives all claims for damages that may be caused by Landlord's re-entering and taking possession of the premises or removing and storing furniture after default by Tenant hereunder and will save and hold Landlord harmless from damages occasioned thereby, except where damage was caused by willful misconduct or gross



negligence of Landlord, its agents, employees, or authorized representatives, and no such reentry shall be considered or construed to be a forcible entry as the same is defined in the Code of Civil Procedure for the State of California.

22.9 Non-Waiver of Damage. Landlord's failure to take advantage of any default or breach of covenant on the part of Tenant shall not be or be construed as a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this instrument be construed to waive or lessen the right of Landlord to insist upon the performance by Tenant of any term, covenant or condition hereof, or the exercise any rights given him on account of any such default. A waiver of a particular breach or default shall not be deemed to be a waiver of the same or any other subsequent breach or default. The acceptance of Rent or Additional Rent hereunder shall not be, nor be construed to be, a waiver of any breach of any term, covenant or condition of this Lease.

22.10 Abandonment. If Tenant abandons the Premises or this Lease is otherwise terminated due to Tenant's default, Landlord's financial obligations to Tenant under the Promissory Note to Tenant will be deemed satisfied. If this Lease is otherwise terminated due to Landlord's breach, Landlord's financial obligations to Tenant under the Promissory Note will not be deemed satisfied and Landlord will be required to make payments to Tenant as provided for in the Promissory Note.

#### ARTICLE 23. LATE PAYMENTS

23.1 Late Charges. If after the initial term of this Lease, any Rent or Additional Rent payment is not received by Landlord or Landlord's designee within ten (10) days after that Rent is due, Tenant shall pay to Landlord a late charge of Two Hundred Fifty Dollars (\$250.00) as liquidated damages, in lieu of actual damages (other than interest under Section 23.2 and attorney fees and costs under Section 26.1). The parties agree that this late charge represents a reasonable estimate of the expenses that Landlord will incur because of any late payment of Rent (other than interest and attorney fees and costs). Tenant shall pay the late charge as Additional Rent with the next installment of Rent.

23.2 Interest. If any Rent payment is not received by Landlord or Landlord's designee within ten (10) days after that Rent is due, Tenant shall pay to Landlord annual interest on the past-due amount, from the date due until paid, at the rate of twelve percent (12%) per year.

#### ARTICLE 24. NONWAIVER

24.1 Nonwaiver. No waiver of any provision of this Lease shall be implied by any failure of either party to enforce any remedy for the violation of that provision, even if that violation continues or is repeated. Any waiver by a party of any provision of this Lease must be in writing. Such written waiver shall affect only the provision specified and only for the time and in the manner stated in the writing.

24.2 Acceptance and Application of Payment; Not Accord and Satisfaction. No receipt by either party of a lesser payment than the Rent required under this Lease shall be considered to be other than on account of the earliest amount due, and no endorsement or statement on any check or letter accompanying a payment or check shall be considered an accord and satisfaction. Each party may accept checks or payments without prejudice to its right to recover all amounts due and pursue all other remedies provided for in this Lease. Either party's receipt of monies from the other party after giving notice to the other party terminating this Lease in no way reinstates, continues, or extends the Lease Term or affects that Termination Notice. After the service of notice terminating this Lease, the beginning of an action, or the entry of final judgment in any action, either party may receive monies from the other party. The payment and receipt of the payment shall not waive or affect such prior notice, action, or judgment.

## ARTICLE 25. DISPUTE RESOLUTION

25.1 Mediation of Disputes. LANDLORD AND TENANT AGREE TO MEDIATE ANY DISPUTE OR CLAIM BETWEEN THEM ARISING OUT OF THIS LEASE OR ANY RESULTING TRANSACTION BEFORE RESORTING TO ARBITRATION OR COURT ACTION. Mediation is a process in which parties attempt to resolve a dispute by submitting it to an impartial, neutral mediator who is authorized to facilitate the resolution of the dispute but who is not empowered to impose a settlement on the parties. Mediation fee, if any, shall be divided equally among the parties involved. Before the mediation begins, the parties agree to sign a document limiting the admissibility in arbitration or any civil action of anything said, any admission made, and any documents prepared, in the course of the mediation, consistent with Evidence Code § 1119. IF ANY PARTY COMMENCES AN ARBITRATION OR COURT ACTION BASED ON A DISPUTE OR CLAIM TO WHICH THIS PARAGRAPH APPLIES WITHOUT FIRST ATTEMPTING TO RESOLVE THE MATTER THROUGH MEDIATION, THEN IN THE DISCRETION OF THE ARBITRATOR(S) OR JUDGE, THAT PARTY SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES EVEN IF THEY WOULD OTHERWISE BE AVAILABLE TO THAT PARTY IN ANY SUCH ARBITRATION OR COURT ACTION. However, the filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not in itself constitute a loss of the right to recover attorney's fees under this provision. The following matters are excluded from the requirement of mediation hereunder: (a) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code § 2985, (b) an unlawful detainer action, (c) the filing or enforcement of a mechanic's lien, and (d) any matter which is within the jurisdiction of a probate court.

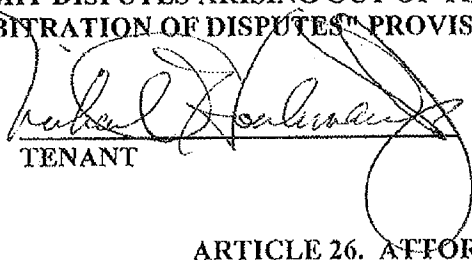
25.2 Arbitration of Disputes. Any dispute or claim in law or equity between Landlord and Tenant arising out of this Agreement or any resulting transaction which is not settled through mediation shall be decided by neutral, binding arbitration and not by court action, except as provided by California law for judicial review of arbitration proceedings.

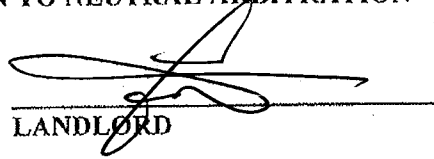
The arbitration shall be conducted in accordance with the rules of either the American Arbitration Association (AAA) or Judicial Arbitration and Mediation Services, Inc. (JAMS). The selection between AAA and JAMS rules shall be made by the claimant

first filing for the arbitration. The parties to an arbitration may agree in writing to use different rules and/or arbitrator(s). In all other respects, the arbitration shall be conducted in accordance with Part III, Title 9 of the California Code of Civil Procedure. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The parties shall have the right to discovery in accordance with Code of Civil Procedure § 1283.05. The following matters are excluded from arbitration hereunder: (a) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code § 2985, (b) an unlawful detainer action, (c) the filing or enforcement of a mechanic's lien, (d) any matter which is within the jurisdiction of a probate or small claims court, and (e) an action for bodily injury or wrongful death, or for latent or patent defects to which Code of Civil Procedure § 337.1 or § 337.15 applies. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to arbitrate under this provision.

**NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.**

**WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION**

  
TENANT

  
LANDLORD

**ARTICLE 26. ATTORNEY FEES AND COSTS**

26.1 Attorney Fees and Costs. If either party undertakes litigation or arbitration against the other party arising out of or in connection with this Lease, the prevailing party shall be entitled to recover from the other party reasonable attorney fees, arbitration costs, and court costs incurred. The prevailing party shall be determined under Civil Code section 1717(b)(1) or any successor statute.

## ARTICLE 27. LANDLORD'S ACCESS TO PREMISES

27.1 Landlord's Access to Premises. Landlord shall have the right to enter the Premises at reasonable times with reasonable notice during normal business hours for the purpose of maintaining or making such repairs or improvements as Landlord may be required to make hereunder, so long as the same shall not unreasonably interfere with Tenant's use and occupancy of the Premises.

27.2 Method of Entry. For entry as permitted by this Article 27, Landlord shall at all times have a key or, if applicable, a card key with which to unlock all the doors in the Premises. In an emergency situation, Landlord shall have the right to use any means that Landlord considers proper to open the doors in and to the Premises. Any such entry into the Premises by Landlord shall not be considered a forcible or unlawful entry into, or a detainer of, the Premises or an actual or constructive eviction of Tenant from any portion of the Premises.

27.3 Emergency Entry. Despite any other provision of this Article 27, Landlord and Landlord's agents may enter the Premises without any advance notice when necessary to address emergency situations. For purposes of this Article, an emergency situation is one that poses a threat of imminent bodily harm or property damage. If Landlord makes an emergency entry onto the Premises when no authorized representative of Tenant is present, Landlord shall provide telephone notice to Tenant as soon as reasonably possible within twenty-four (24) hours after that entry and shall take reasonable steps to secure the Premises until a representative of Tenant arrives at the Premises.

## ARTICLE 28. MISCELLANEOUS

28.1 Section Headings. The titles to the various Sections appearing in this Lease have been inserted solely for the convenience of the parties and are otherwise no part of this Lease and shall not in any manner be used to explain, modify or aid in the interpretation of any part hereof.

28.2 Entire Agreement. This Lease and all exhibits referred to in this Lease constitute the final, complete, and exclusive statement of the terms of the agreement between Landlord and Tenant pertaining to Tenant's lease of the Premises and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this Lease by, and neither party is relying on, any representation or warranty outside those expressly set forth in this Lease.

28.3 Exhibits. The Exhibits and Addendum, if applicable, attached to this Lease are a part of this Lease and incorporated into this Lease by reference.

28.4 Partial Invalidity. If a court or arbitrator of competent jurisdiction holds any Lease clause to be invalid or unenforceable in whole or in part for any reason, the validity and enforceability of the remaining clauses, or portions of them, shall not be affected unless an essential purpose of this Lease would be defeated by loss of the invalid or unenforceable provision.

28.5 Binding Effect. This Lease shall bind and benefit the parties to this Lease and their legal representatives and successors in interest.

28.6 Independent Covenants. This Lease shall be construed as though its covenants between Landlord and Tenant are independent and not dependent.

28.7 Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State of California.

28.8 Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail to the parties at their respective addresses set forth in the Office Lease Summary. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this Section. Rent shall be paid to Landlord at Landlord's address.

28.9 Submission of Lease. Submission of this document for examination or signature by the parties does not constitute an option or offer to lease the Premises on the terms in this document or a reservation of the Premises in favor of Tenant. This document is not effective as a lease or otherwise until executed and delivered by both Landlord and Tenant.

28.10 Right To Lease. Landlord reserves the absolute right to contract with any other person or entity to be a tenant in the Premises as Landlord, in Landlord's sole business judgment, determines best to promote the interests of the Premises. Tenant does not rely on the expectation, and Landlord does not represent, that any specific tenant or type or number of tenants will, during the Lease Term, occupy any space in the Premises.

28.11 No Air Rights. No rights to any view from the Premises or to exterior light or air to the Premises are created under this Lease.

28.12 Brokers. Landlord and Tenant each represents to the other that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, and that they know of no other real estate broker or agent who is entitled to a commission or finder's fee in connection with this Lease. Each party shall indemnify, protect, defend, and hold harmless the other party against all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including reasonable attorney fees) for any leasing commission, finder's fee, or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker or agent other than the Brokers. The terms of this Section 28.12 shall survive the expiration or earlier termination of the Lease Term.

28.13 Minimization of Interference. Landlord shall exercise its rights and perform its obligations under this Lease, and otherwise operate the Premises, in such a way as to reasonably minimize any resulting interference with Tenant's use of the Premises. Tenant shall exercise its rights and perform its obligations under this Lease, and otherwise operate the Premises, in such a way as to reasonably minimize any resulting interference with the operation of the Premises, except as otherwise provided under this Lease.

28.14 Quiet Enjoyment. Landlord covenants and agrees with Tenant that, upon Tenant paying Rent and performing all the covenants and conditions of the Lease to be performed by Tenant, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the Term subject, however, to the terms of this Lease

28.15 Time of Essence. Time is of the essence of this Lease and each and every provision of this Lease.

28.16 Counterpart Provision. This lease may be executed in counterpart.

28.17 Amendment. This Lease and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant.

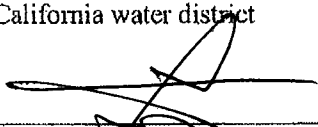
Executed in Marina, California effective as of the Effective Date.

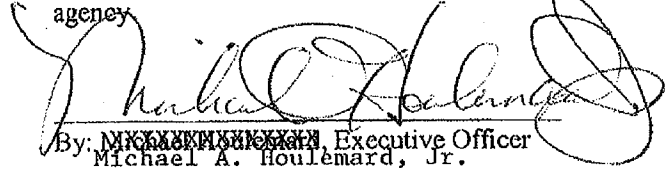
LANDLORD:

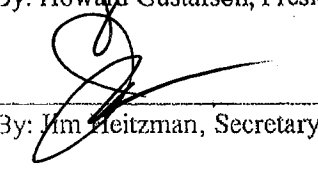
TENANT:

MARINA COAST WATER DISTRICT, a  
California water district

FORT ORD RESUSE AUTHORITY, a public  
agency

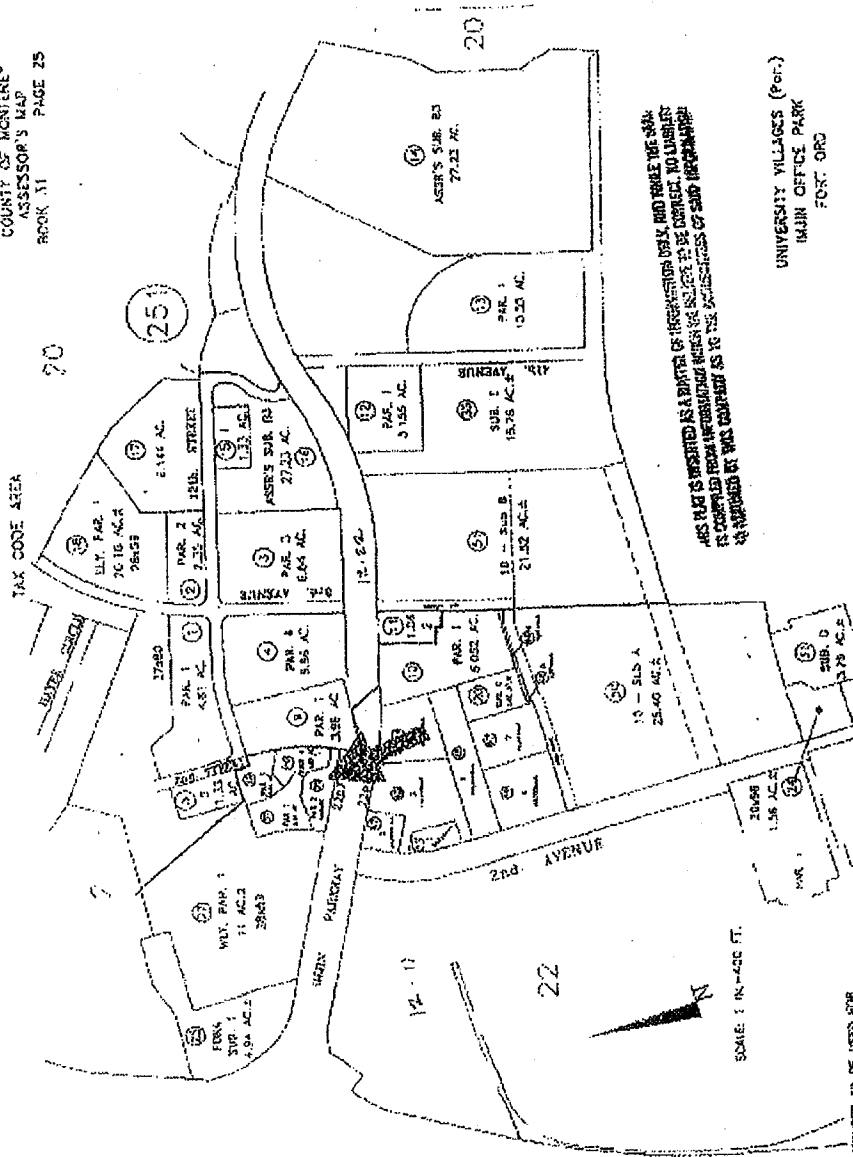
  
By: Howard Gustafson, President

  
By: ~~Michael A. Houlemard, Jr.~~ Executive Officer  
Michael A. Houlemard, Jr.

  
By: Jim Heitzman, Secretary

# EXHIBIT A DIAGRAM OF LAND AND PREMISES

COUNTY OF MONTEREY  
ASSESSOR'S MAP  
BOOK 31 PAGE 25

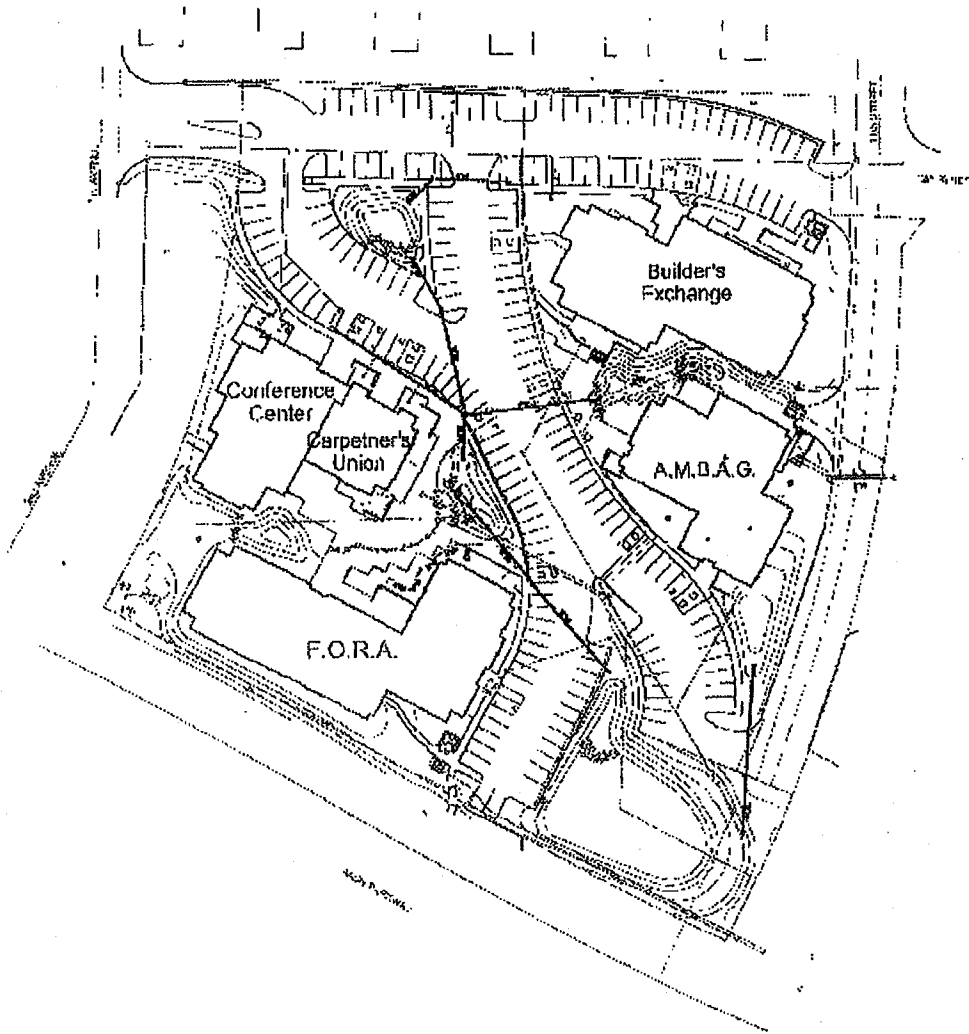


THIS MAP IS PREPARED AS A PART OF INFORMATION ONLY AND WHILE THE MAP IS COMPILED FROM INFORMATION WHICH IS BELIEVED TO BE CORRECT, NO LIABILITY IS ASSUMED BY THIS COUNTY AS TO THE ACCURACIES OF SAID INFORMATION.

UNIVERSITY VILLAGES (cont.)  
MAIN OFFICE PARK  
FORT ORC

PREPARED BY ASSESSOR'S OFFICE  
MONTEREY COUNTY

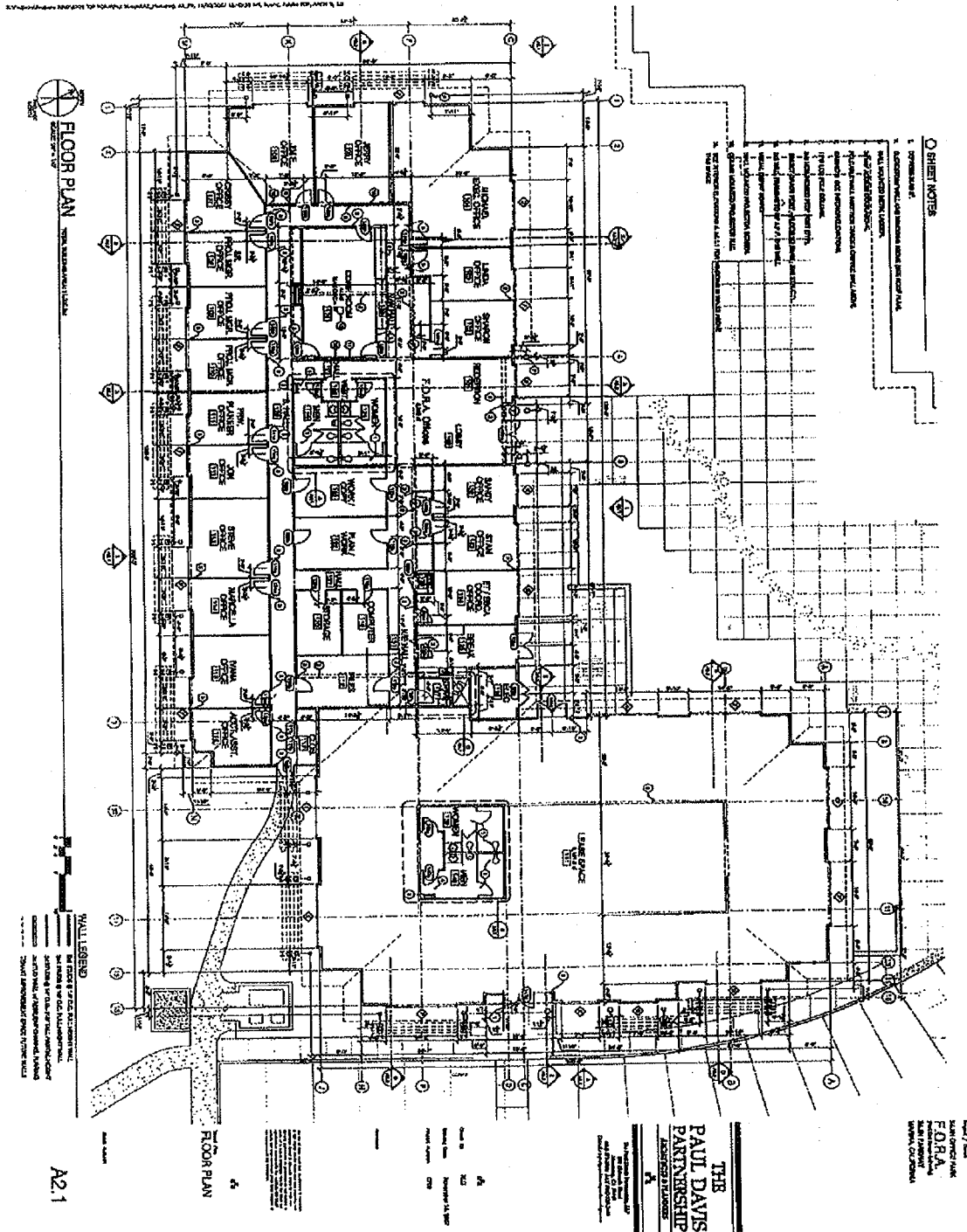
**EXHIBIT A  
DIAGRAM OF LAND AND PREMISES**



<b>THE PAUL DAVIS PARTNERSHIP</b> <small>ARCHITECTS &amp; PLANNERS</small> 	Project Owner: Imjin Office Park	Classification Sketch#
	No. 29:	Date: 10/10/07 Scale: None=1'-0"
		Portion of Record #: <b>A1</b>



# EXHIBIT A DIAGRAM OF LAND AND PREMISES



**BRIEF NOTES**

1. CONSTRUCTION OF WALLS AND PARTITION WALLS TO BE IN ACCORDANCE WITH THE SPECIFICATIONS AND DETAILS OF THE ARCHITECTURAL DRAWINGS.
2. ALL WALLS AND PARTITION WALLS TO BE CONSTRUCTED IN ACCORDANCE WITH THE SPECIFICATIONS AND DETAILS OF THE ARCHITECTURAL DRAWINGS.
3. ALL WALLS AND PARTITION WALLS TO BE CONSTRUCTED IN ACCORDANCE WITH THE SPECIFICATIONS AND DETAILS OF THE ARCHITECTURAL DRAWINGS.
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9. ALL WALLS AND PARTITION WALLS TO BE CONSTRUCTED IN ACCORDANCE WITH THE SPECIFICATIONS AND DETAILS OF THE ARCHITECTURAL DRAWINGS.
10. ALL WALLS AND PARTITION WALLS TO BE CONSTRUCTED IN ACCORDANCE WITH THE SPECIFICATIONS AND DETAILS OF THE ARCHITECTURAL DRAWINGS.

**FLOOR PLAN**

**WALL LEGEND**

A2.1

**THE  
PAUL DAVIS  
PARTNERSHIP**

Paul Davis  
FOR A  
PARTNERSHIP  
MEMBER OF CH2M

**EXHIBIT B**  
**SCHEDULE OF TENANT IMPROVEMENTS**

Tenant improvements are described in the current building plans prepared by the Paul Davis Partnership — sheets A, S, M, P, & FA