



ORIGINAL

Contract Number

20-997

SAP Number

Real Estate Services Department

Department Contract Representative	<u>Terry W. Thompson, Director</u>
Telephone Number	<u>(909) 387-5252</u>
Contractor	<u>Potomac Plaza, LLC</u>
Contractor Representative	<u>Joon Shik Choi, Member</u>
Telephone Number	<u>(213) 321-5584</u>
Contract Term	<u>4/1/2021 – 3/31/2031 (projected)</u>
Original Contract Amount	<u>\$717,094.00</u>
Amendment Amount	<u></u>
Total Contract Amount	<u>\$717,094.00</u>
Cost Center	<u>5911592220</u>
GRC/PROJ/JOB No.	<u>59004065</u>
Internal Order No.	<u></u>

Briefly describe the general nature of the contract:

The Lease Agreement is for a lease of certain premises, comprising a total of approximately 2,661 square feet within an existing building located at 2376 Del Rosa Avenue, San Bernardino, CA for a period of ten years, which is projected to commence on April 1, 2021 and expire on March 31, 2031, subject to: (i) LANDLORD's substantial completion of the Improvements in accordance with the Improvement Specifications, subject only to minor punch list items as mutually agreed by the Parties; (ii) COUNTY's receipt of a final certificate of occupancy for the Premises, and if applicable, the Building and the Property, issued by all relevant governmental authorities; and (iii) written confirmation by an authorized agent of COUNTY that the Improvements were completed in accordance with the Improvement Specifications but without waiver as to any defects, representations and warranties, and warranties set forth in the Lease.

FOR COUNTY USE ONLY

Approved as to Legal Form See signature page Agnes Cheng, County Counsel Date _____	Reviewed for Contract Compliance _____ Date _____	Reviewed/Approved by Department <i>FOR</i> <i>Jim Miller</i> Jim Miller, Real Property Manager, RESD Date <i>10/16/20</i>
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LEASE AGREEMENT

BETWEEN

Potomac Plaza, LLC, a California limited liability company

AS LANDLORD

AND

COUNTY OF SAN BERNARDINO

AS TENANT

**for certain premises at
2376 Del Rosa Avenue San Bernardino, CA**

LEASE AGREEMENT

In consideration of the mutual covenants contained in the Lease Agreement ("Lease") and for other good and valuation consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, LANDLORD, as landlord, and COUNTY, as tenant, agree on the terms and conditions set forth in the Lease.

SECTION I – BASIC LEASE PROVISIONS

The following basic lease provisions ("Basic Lease Provisions") are hereby made a part of the Lease and incorporated herein for the purposes of setting forth the meanings of certain terms in the Lease. In the event of any conflict between terms in the Basic Lease Provisions and the provisions in Section II – Lease Provisions, the provisions in Section II – Lease Provisions shall govern.

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| A. | LANDLORD | Potomac Plaza, LLC, a California limited liability company |
| B. | COUNTY | County of San Bernardino |
| C. | PROPERTY | Certain real property, comprising the grounds and all improvements thereon (whether now or subsequently existing) located in the City of San Bernardino, County of San Bernardino, commonly known as APN 0272-201-55, |
| D. | BUILDING | The building located on the Property with an address of 2376 Del Rosa Avenue, San Bernardino, CA |
| E. | PREMISES | A total of approximately 2661 square feet, comprising the entire interior rentable area within the single-story Building, as the Premises are set forth in Exhibit "A" to the Lease |
| F. | PERMITTED USE | General office use |
| G. | ALLOCATED PARKING | Seventeen (17) unreserved parking spaces within portions of the parking areas at the Property usable by the COUNTY for the Premises |
| H. | LEASE TERM | Ten (10) Years, commencing on the Commencement Date and expiring on the Expiration Date unless earlier terminated in accordance with the Lease |
| I. | COMMENCEMENT DATE | The date the latest of all of the following occurs: (i) LANDLORD has substantially completed the Improvements in accordance with the Improvement Specifications, subject only to minor punchlist items as mutually agreed by the Parties; (ii) COUNTY's receipt of a final certificate of occupancy for the Premises, and if applicable, the Building and the Property, issued by all relevant governmental authorities; and (iii) written confirmation by an authorized agent of COUNTY that the Improvements were completed in accordance with the Improvement Specifications (as defined herein) but without waiver as to any defects, representations and warranties, and warranties set forth in the Lease. As of the date this Lease is executed, the Commencement Date is projected to occur on April 1, 2021 (" Projected Commencement Date ") |

J.	EXPIRATION DATE	Ten (10) years from the Commencement Date	
K.	MONTHLY RENT FOR PREMISES	Period during Lease Term	Monthly Rent
		Lease Year 1	\$4,657.00
		Lease Year 2	\$4,657.00
		Lease Year 3	\$4,657.00
		Lease Year 4	\$4,657.00
		Lease Year 5	\$4,657.00
		Lease Year 6	\$4,763.00
		Lease Year 7	\$4,763.00
		Lease Year 8	\$4,763.00
		Lease Year 9	\$4,763.00
		Lease Year 10	\$4,763.00
L.	OPTION TO EXTEND LEASE TERM	COUNTY shall have the right, at its option, to extend the Lease Term for one additional term of five years, subject to Paragraph 7 of the Lease	
M.	EARLY TERMINATION OPTION	At any time prior to the Expiration Date whenever COUNTY, in its sole discretion, determines it would be in COUNTY's best interests to terminate the Lease, COUNTY shall have the right, its option and at no cost, to terminate the Lease as to the Premises or any portion thereof by providing not less than one hundred eighty (180) days prior written notice to LANDLORD, subject to Paragraph 8 of the Lease	
N.	IMPROVEMENTS	LANDLORD shall, at its sole cost and expense, complete the Improvements in accordance with the Exhibit "B", Improvement Work Letter, Exhibit "B-1" Improvement Specifications, and this Lease on or before the Projected Commencement Date	
O.	LANDLORD'S NOTICE ADDRESS	Potomac Plaza, LLC 1835 Catlin St. Fullerton, CA 92833 Attn: Joon Choi, Manager	
P.	COUNTY'S NOTICE ADDRESS	County of San Bernardino Attn: Real Estate Services Department 385 N. Arrowhead Avenue, Third Floor San Bernardino, CA 92415	
Q.	EXHIBITS	Exhibit "A"	Building and Parking Areas
		Exhibit "A-1"	Premises
		Exhibit "B"	Improvement Work Letter
		Exhibit "B-1"	Improvement Specifications
		Exhibit "C"	Commencement Date Certificate
		Exhibit "D"	Reserved
		Exhibit "E"	Form of Estoppel Certificate

Exhibit "F" Form of Subordination, Non-disturbance, and
Attornment
Exhibit "G" List of Former County Officials
Exhibit "H" Prevailing Wage Requirements

SECTION II – LEASE PROVISIONS

1. **PARTIES.** The parties to the Lease are LANDLORD, as landlord, and COUNTY, as tenant (each a "Party" and collectively, "Parties"), as each Party is set forth in the Basic Lease Provisions. LANDLORD represents and warrants to COUNTY that LANDLORD is the legal owner with sole fee simple title to the Property, including, but not limited to, the Premises, and has the right to enter into the Lease without consent or approval from any other party or parties. In the event of a breach of the foregoing representation and warranty, COUNTY shall have the right to terminate the Lease with immediate effect upon written notice to LANDLORD and LANDLORD shall indemnify, defend (with counsel reasonably approved by COUNTY), and hold harmless COUNTY and its officers, employees, agents, and volunteers from any and all claims, actions, losses, damages and/or liability arising out of or related to said breach. LANDLORD's indemnity shall survive the expiration or earlier termination of the Lease.

2. **PREMISES.** LANDLORD leases to COUNTY and COUNTY leases from LANDLORD the Premises as set forth in the Basic Lease Provisions for the duration of the Lease Term, including any extensions thereof. The Parties acknowledge and agree that the Premises shall not be re-measured during the Lease Term nor during any extensions thereof. Along with its lease of the Premises, COUNTY shall have the right to access and use the Allocated Parking at no additional monetary cost or expense to COUNTY for the duration of the Lease Term and any extensions thereof. COUNTY shall further have the right to access and use all common areas meaning those areas located within the Building or on the Property ("Common Areas") at no additional cost or expense to COUNTY for the duration of the Lease Term and any extensions thereof.

3. **TERM.** The Lease Term shall commence on the Commencement Date and expire on the Expiration Date as set forth in the Basic Lease Provisions unless earlier terminated in accordance with the terms of the Lease. In the event that the Commencement Date is subject to Improvements to be completed by a Projected Commencement Date, the Parties shall execute a Commencement Date Certificate substantially in the form of Exhibit "C," attached hereto and incorporated herein by reference, to confirm the occurrence of the actual Commencement Date, the actual Expiration Date, and any other pertinent terms of the Lease. COUNTY shall prepare the Commencement Date Certificate and LANDLORD shall execute and return said certificate within ten (10) days after its receipt from COUNTY. If LANDLORD does not timely execute and return said certificate, LANDLORD shall be deemed to have accepted all of the terms of the Lease as confirmed in the Commencement Date Certificate prepared by COUNTY. COUNTY's Director of the Real Estate Services Department ("RESD") shall have the authority on behalf of COUNTY to execute said certificate but only if the occurrence of the actual Commencement Date does not exceed ninety (90) days from the Projected Commencement Date.

4. **RENT.** COUNTY shall pay to LANDLORD, in arrears on or before the last day of each calendar month during the Lease Term, the Monthly Rent for the Premises in accordance with the rent schedule set forth in the Basic Lease Provisions but subject to any deductions, offsets, and adjustments that are permitted under the Lease. Monthly Rent for the Premises during any partial calendar month during the Lease Term shall be pro-rated based on the actual number of days the Premises is occupied by COUNTY in said month. LANDLORD agrees to accept all Monthly Rent for the Premises and other payments due from COUNTY to LANDLORD under the Lease via electronic payments directly deposited to LANDLORD's designed bank account. LANDLORD shall complete any and all COUNTY standard forms and provide all information required by COUNTY to process such electronic payments. In addition, on or before the date LANDLORD executes the Lease, LANDLORD shall register with COUNTY's then current electronic procurement system.

5. **PERMITTED USE.** COUNTY shall have the right to use the Premises for the Permitted Use set forth in the Basic Lease Provisions and shall have access to the Premises, the Building, and the Property 24 hours a day and seven days a week.

6. **RESERVED.**

7. **OPTION TO EXTEND LEASE TERM.**

A. COUNTY shall have the Option to Extend Lease Term as to the Premises or any portion thereof for the number of option terms ("Option Terms") and the period of time during each option term set forth in the

Basic Lease Provisions on the same terms and conditions as the Lease, except the Monthly Rent for the Premises. COUNTY shall not be required to exercise the Option Terms consecutively and COUNTY may opt to exercise one or multiple Option Terms at once. To exercise Option Terms, COUNTY shall provide LANDLORD with written notice at any time on or prior to the expiration or earlier termination of the then current Lease Term or during any Holdover Period (as later defined).

B. The Monthly Rent for the Premises during each Option Term shall be adjusted by good faith negotiation of the Parties to the fair market monthly rental rate then prevailing based on the monthly rental rent ("FMV Rent") of comparable leased premises in the County of San Bernardino. The parties acknowledge and agree that if the rent payable in Paragraph 4, RENT for the immediately preceding term includes amortized improvement costs, such costs will have been fully amortized during the immediately preceding term and no further payment for the improvements will be made by COUNTY. The FMV Rent shall solely be based on the base rate for the Premises and shall not include any amounts paid for said improvements. If the Parties have been unable to agree on the FMV Rent for the Premises within five (5) months of COUNTY's exercise of its option, said FMV Rent shall be determined through arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. During the period between the expiration of the then current Lease Term and the determination of the Monthly Rent for the Premises by arbitration, COUNTY shall continue to pay the Monthly Rent for the Premises in the amount due for the month immediately preceding expiration of the then current Lease Term. If the FMV Rent for the Premises is determined by arbitration and COUNTY does not, for any reason, agree with such determination, COUNTY shall have the right to terminate the Lease by providing LANDLORD with written notice not later than thirty (30) days after COUNTY's receipt of the arbitration-determined FMV Rent. In the event COUNTY does not so terminate the Lease, COUNTY shall commence paying the arbitration-determined FMV Rent for the month immediately following COUNTY's receipt of said rate determination and for the duration of the subject Option Term.

8. **EARLY TERMINATION OPTION.** COUNTY shall have the Early Termination Option as set forth in the Basic Lease Provisions. COUNTY's RESD Director shall have the authority on behalf of COUNTY to provide LANDLORD with notice of any termination pursuant to this paragraph. In the event COUNTY terminates the Lease as to the Premises or any portion thereof pursuant to this paragraph, LANDLORD shall only have the right to receive from COUNTY the Monthly Rent or other sums due which will have been earned under the Lease for the Premises or portion thereof through the effective termination date and for no other amounts. For avoidance of doubt, provided that the required notice is given, a termination pursuant to this paragraph is not required to be at the end of a calendar month in order to be effective.

9. **HOLDOVER.** In the event that COUNTY continues to occupy the Premises after the expiration or earlier termination of the Lease Term, COUNTY's tenancy shall be on a month-to-month term ("Holdover Period") on the same terms and conditions as the Lease, including, but not limited to, the Monthly Rent for the Premises in effect as of the expiration or earlier termination of the Lease, but specifically excluding amortized improvement costs, if any. Notwithstanding anything to the contrary in the Lease, either Party shall have the right to terminate the Lease during the Holdover Period by providing not less than ninety (90) days prior written notice to the other Party.

10. **TAXES.** LANDLORD shall, at its sole cost and expense, pay, prior to delinquency, any and all real property taxes and general and special assessments levied and assessed against the Premises, the Building, and the Property and all improvements thereon.

11. **UTILITIES.**

A. LANDLORD shall furnish to the Premises, the Building, and the Property and COUNTY shall pay for all service charges and related taxes for electric, gas, water, sewer, trash, fire alarm service and all other utilities. COUNTY shall furnish and pay for vending machines and its own telephone service including pay telephones in the Premises. COUNTY shall have the option to provide security services for the interior of the Premises for COUNTY's own purposes, which security services, if opted by COUNTY, shall not alter LANDLORD's obligations in Paragraph 17, MAINTENANCE & REPAIR.

B. Interruptions. In the event of any interruption of any utilities provided to the Premises, the Building, or the Property and COUNTY determines, in its sole discretion, that COUNTY is unable access the Premises or the Allocated Parking or unable to conduct its operations at the Premises as a result of such interruption, LANDLORD shall immediately restore the affected utility service(s) and Monthly Rent shall be abated for the duration of the interruption in proportion to the Premises or portion thereof that is inaccessible or unusable by COUNTY to conduct its operation and COUNTY shall have the right to deduct the abated amount from the Monthly Rent and other sums next due for the period from the date the interruption commenced until such time that the affected utility is fully restored.

12. LEGAL COMPLIANCE.

A. Compliance with Laws. As a condition precedent to COUNTY's obligations under the Lease, (i) the Premises, the Building, and the Property comply with the applicable requirements of all municipal, county, state, federal, and regulatory laws, statutes, codes, ordinances, and regulations for public and government buildings then in effect, including, but not limited to, applicable Health, Safety, Fire and Building codes, notice of completion, certificate of occupancy, California Title 24, and the Americans with Disabilities Act (collectively, "Laws"); (ii) an accessible path of travel exists from public transportation to the Premises pursuant to California Title 24 requirements; (iii) all improvements in or on the Premises, the Building, and the Property (whether constructed by LANDLORD, prior tenants, or any third party) comply with all applicable covenants or restrictions of record for the Property and all applicable Laws; (iv) LANDLORD has not received any violations of Laws from any relevant government authority with respect to the Premises, the Building, or the Property; and (v) LANDLORD has no knowledge of any pending or threatened claims of any violations of Laws from any third party with respect to the Premises, the Building, or the Property. LANDLORD covenants that LANDLORD shall, at its sole cost and expense, maintain the Premises, the Building, and the Property in compliance with all applicable Laws for the duration of the Lease Term and any extensions thereof. LANDLORD represents and warrants to COUNTY that the foregoing is true and accurate as of the Commencement Date. In the event of a breach of the foregoing representations, warranties, or covenants herein, LANDLORD shall, at its cost and sole expense, promptly remedy any non-compliance with Laws and indemnify, defend (with counsel reasonably approved by COUNTY), and hold harmless COUNTY and its officers, employees, agents, and volunteers from any and all claims, actions, losses, damages and/or liability arising out of or related to said breach. LANDLORD's indemnity obligation shall survive the expiration or earlier termination of the Lease. In the event of that the Premises, the Building or the Property requires modifications due to changes in Laws during the Lease Term or any extensions thereof, LANDLORD shall, at its sole cost and expense, promptly complete such modification.

B. CASp Inspection. LANDLORD certifies to COUNTY that as of the Commencement Date, an inspection of the Premises, the Building, or the Property has not been performed by a Certified Access Specialist in conjunction with the Lease. Notwithstanding that an access inspection has not been performed, LANDLORD remains obligated for the compliance of the Premises, the Building, and the Property with Laws for the duration of the Lease Term including any extensions thereof. In the event that an access inspection is performed by LANDLORD at any time during the Lease Term including any extensions thereof, LANDLORD shall provide COUNTY with a copy of the inspection report and LANDLORD shall, at its sole cost and expense, promptly complete all required and recommended repairs and modifications to the Premises, the Building, or the Property identified in the inspection report.

13. HAZARDOUS SUBSTANCES.

A. LANDLORD hereby represents and warrants to COUNTY that, as of the Commencement Date: (i) the Premises, the Building, and the Property have not been exposed to Hazardous Substances and are free of all Hazardous Substances; (ii) neither LANDLORD nor any existing or former tenants or occupants at the Property were or are in violation of or subject to an existing, pending or threatened investigation by any governmental authority under any applicable local, state, and federal law, regulation, ordinance or other legislation pertaining to air, water, or soil quality or the handling, transportation, storage, treatment, usage or disposal of Hazardous Substances; (iii) any handling, transportation, storage, treatment, usage, or disposal of Hazardous Substances at the Premises, the Building, and the Property has been or are in compliance with applicable laws; and (iv) no reportable use has occurred on the Premises, the Building, and the Property and the

vapor, groundwater and soil on or under the Premises, the Building, and the Property is free of Hazardous Substances.

B. LANDLORD shall indemnify, defend (with counsel reasonably approved by COUNTY), protect, and hold harmless COUNTY and its officers, employees, agents, and volunteers and the Premises, from any and all claims, actions, losses, damages, judgments, costs, expenses, penalties, and/or liability, including, but not limited to, attorneys' and consultant's fees, arising out of or related to the existence of any Hazardous Substances located in, on, under, or about the Premises, the Building, and the Property occurring: (i) prior to the Commencement Date and (ii) during the Lease Term to the extent not directly and solely caused by COUNTY. Additionally, the issuance of an order by any governmental authority directing LANDLORD or any of LANDLORD's other tenants or occupants on the Property to cease and desist any illegal action in connection with a Hazardous Substance, or to remediate a contaminated condition caused by LANDLORD or any person acting under LANDLORD's direct control and authority is a default of the Lease, and LANDLORD shall be responsible for all costs and expenses of complying with such order, including any and all expenses imposed on or incurred by COUNTY in connection with or in response to such order. LANDLORD's obligations under this paragraph shall include, but shall not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by COUNTY, and the cost of investigation, removal, remediation, restoration and/or abatement thereof. LANDLORD's obligations under this provision shall survive the expiration or early termination of the Lease. No termination, cancellation or release agreement entered into by COUNTY and LANDLORD shall release LANDLORD from its obligations under the Lease with regard to Hazardous Substances unless specifically agreed to by COUNTY in writing.

C. For the purposes of this paragraph, the following definitions shall apply:

(1) "Hazardous Substance," as used in the Lease, shall mean any product, substance, material, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (a) potentially injurious to the public health, safety or welfare, the environment or the Premises, the Building, or the Property; (b) regulated or monitored by any governmental authority; or (c) a basis for potential liability of LANDLORD or COUNTY under any applicable statute or common law theory.

(2) "Reportable use" shall mean: (a) the installation or use of any above- or below-ground storage tank; (b) the generation, possession, storage, use, transportation or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with any governmental authority and/or (c) the presence at the Premises, the Building, or the Property of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises, the Building, the Property or neighboring properties.

(3) The term "applicable requirements" shall be deemed to refer to all applicable laws, covenants or restrictions of record, building codes, regulations and ordinances.

14. **ALTERATIONS.** COUNTY shall not make any structural or exterior improvement or alterations to the Premises during the Lease Term without LANDLORD's prior written consent. If LANDLORD does not respond within thirty (30) days after COUNTY's request for consent for any structural or exterior improvements or alterations, LANDLORD shall be deemed to have approved COUNTY's request. Upon the expiration or earlier termination of the Lease, such improvements or alterations shall be surrendered along with the Premises and COUNTY shall have no removal or restoration obligation.

15. **FIXTURES.** COUNTY shall have the right to install shelving and fixtures and make interior, non-structural improvements or alterations in the Premises during the Lease Term without LANDLORD's prior consent. Such shelving, fixtures, improvements, and alterations shall remain the property of COUNTY during the Lease Term, and may, at COUNTY's option, in its sole discretion, either: (i) be removed during the Lease Term or upon the expiration or earlier termination of the Lease or within sixty (60) days thereafter without the payment of Monthly Rent or other sums, provided that COUNTY restores any damage caused by such removal; or (ii) be surrendered along with the Premises, in which case, COUNTY shall have no removal or restoration obligation. COUNTY shall

have the right, at its option and cost to install at the Premises, telephone and data cabling, any security system, and vending machines.

16. **SIGNS.** COUNTY shall at no additional cost to COUNTY, have the right to install any signage, including, but not limited to: (i) in the interior of the Premises, including those that may be visible from outside the Premises; (ii) at or near the entry to the Premises, including those that may be located outside of the Premises but inside the Building; (iii) in the Building directory and in the Building lobby; and (iv) on the exterior of the Building or the Property, provided that such exterior signage complies with applicable laws and is approved by LANDLORD. If LANDLORD does not respond within ten (10) days after COUNTY's request for consent for exterior signage, LANDLORD shall be deemed to have approved COUNTY's request.

17. **MAINTENANCE AND REPAIR.**

A. LANDLORD represents and warrants to COUNTY that as of the Commencement Date, the Premises, the Building, and the Property, including but not limited to all structural elements, the building systems, and other improvements thereon are in good working order, condition, and repair and water-tight. During the Lease Term, including any extensions thereof, LANDLORD shall, at its sole cost and expense, provide the following services and perform all inspections, maintenance, repairs, and replacements as is necessary or as reasonably requested by COUNTY to keep in good working order, condition, and repair and water-tight, all structural elements, the building systems, and other improvements thereon, including but not limited to the following:

(1) All structural and other elements of the Premises, Building, and the Property, inclusive of all components thereto and regardless of where situated on the Property, including, but not limited to, the roof; foundation; slab; sub-flooring; façade; exterior and load-bearing walls; eaves, gutters, and downspouts; exterior windows, frames, and glass; exterior doors; lobbies, elevators, and stairs and stairwells; in the event of water intrusion, LANDLORD shall repair any such intrusions and remediate any and all mold or other contaminants and perform all recommended repairs in a report provided by its third-party contractors; and,

(2) All systems of the Premises, the Building, and the Property inclusive of all components thereto and regardless of where situated on the Property, including, but not limited to, all mechanical, electrical, lighting, plumbing, water, and sewage and electric generators; plumbing maintenance shall include, but is not limited to, unclogging and repairing all drains, pipes, toilets, sinks, and other restroom fixtures and repairing water intrusion issues and remediation of mold and other contaminants regardless of cause; lighting maintenance shall include, but is not limited to, bulb and ballast replacements; and

(3) All heating, ventilation and air conditioning ("HVAC") systems of the Premises, the Building, and the Property, inclusive of all components thereto and regardless of where situated on the Property; HVAC maintenance shall include, but is not limited to, providing certified air balance and maintenance service (with a copy of the certificate to be delivered to COUNTY on the Commencement Date and on each second anniversary of the Commencement Date during the Lease Term) and replacing all filters on a quarterly basis; and

(4) All life-safety systems of the Premises, Building, and the Property, inclusive of all components thereto and regardless of where situated on the Property, including, but not limited to, fire suppression; fire sprinklers; fire alarms; fire extinguishers; and exit signage; and

(5) All grounds of the Property, inclusive of all components thereto, including, but not limited to, parking lot, parking structures, accessible parking spaces, drive lanes, and driveways; sidewalks; fences and gates; exterior lighting; exterior signage; and landscaping; parking maintenance shall include, but is not limited to cleaning, repaving, re-striping, curb and pothole repairs, and replacements; landscaping maintenance shall include, but is not limited to grass, trees, shrubbery, and flora, which shall be kept in a green condition; all landscaping must be maintained to follow the "two foot eight foot" rule as described in this sub-paragraph. Hostile landscaping should be used in planters along the fence line and in any planters that are around the Building. Landscaping must be maintained at two feet or less and tree canopies must be no lower than eight feet. Landscaping on both sides of the fence line should have a standoff distance of at least twenty-four to thirty-six

inches to maintain line of sight to enable natural surveillance and eliminate hiding areas within the landscaping. Tree canopies must not interfere with or block the lighting along sidewalks or in the parking lots to eliminate shadows and areas of concealment; and

(6) Interior non-structural elements of the Premises, the Building, and the Property, inclusive of all components thereto and regardless of where situated on the Property, including, but not limited to, walls and ceilings; windows, frames, and glass; doors; fixtures, restrooms, break rooms, drinking fountains, and hallways, including, but not limited to, due to vandalism;

(7) Pest control services for the Premises (except that COUNTY shall be responsible for pest control services for the interior of the Premises to the extent such services are routine or are required and caused by COUNTY), the Building, and the Property, which shall be performed after COUNTY's normal business hours; and

(8) At any time on or after the seventh (7th) anniversary of the Commencement Date, at COUNTY's election, in its sole discretion, LANDLORD shall either: (i) replace, at LANDLORD's sole cost and expense, the carpet throughout the entire Premises, meeting the same criteria as specified in Exhibit "B-1", Improvement Specifications, within thirty (30) days after COUNTY's election; or (ii) provide COUNTY with credit against the Monthly Rent ("Rent Credit") in the amount determined in accordance with this paragraph. In the event COUNTY opts to receive Rent Credit, LANDLORD shall, within thirty (30) days after COUNTY'S election, obtain three (3) competitive bids from licensed and bonded local carpet vendors approved by COUNTY and the amount of the Rent Credit shall be the amount of the lowest of the competitive bids received, which credit will be applied toward Monthly Rent next due to LANDLORD and each Monthly Rent due thereafter until such credit is exhausted. If LANDLORD fails to obtain said competitive bids with the timeframe stated in this paragraph, COUNTY shall have the right to obtain such bids, present said bids to LANDLORD to substantiate the total Rent Credit due to COUNTY, and apply such credit toward the Monthly Rent next due to LANDLORD and each Monthly Rent due thereafter until such credit is exhausted. COUNTY shall have the recurring right to elect the replacement of the carpet throughout the entire Premises or Rent Credit pursuant to this paragraph during the Lease Term, provided that at least seven years has elapsed since the date of COUNTY's immediately preceding election.

(9) At any time on or after the fifth (5th) anniversary of the Commencement Date, at COUNTY's election, in its sole discretion, LANDLORD shall either: (i) repaint, at LANDLORD's sole cost, the entire interior of the Premises, meeting the same criteria as specified in Exhibit "B-1", Improvement Specifications, within thirty days after COUNTY's election; or (ii) provide COUNTY with Rent Credit in the amount determined in accordance with this paragraph. In the event COUNTY opts to receive Rent Credit, LANDLORD shall, within thirty (30) days after COUNTY'S election, obtain three (3) competitive bids from licensed and bonded local paint vendors approved by COUNTY and the amount of the Rent Credit shall be the amount of the lowest of the competitive bids received, which credit will be applied toward Monthly Rent next due to LANDLORD and each Monthly Rent due thereafter until such credit is exhausted. If LANDLORD fails to obtain said competitive bids with the timeframe stated in this paragraph, COUNTY shall have the right to obtain such bids, present said bids to LANDLORD to substantiate the total Rent Credit due to COUNTY, and apply such credit toward the Monthly Rent next due to LANDLORD and each Monthly Rent due thereafter until such credit is exhausted. COUNTY shall have the recurring right to elect repainting of the entire interior of the Premises or Rent Credit pursuant to this paragraph during the Lease Term, provided that at least five years has elapsed since the date of COUNTY's immediately preceding election.

B. LANDLORD shall engage licensed and bonded contractors to perform LANDLORD's maintenance in the Lease, which services shall be performed in a good and workmanlike manner. With respect to the Premises, LANDLORD's maintenance obligations shall be performed at times during COUNTY's regular business hours that are approved in writing by COUNTY. LANDLORD's service providers must be escorted by COUNTY staff while in the Premises and such services shall be performed in a manner that will cause the least possible inconvenience, annoyance, or disturbance to COUNTY. COUNTY shall provide custodial services for the Premises.

C. Without in any way affecting LANDLORD'S obligations in this paragraph and regardless of whether any specific notice of need for maintenance or repair is provided to LANDLORD by COUNTY, COUNTY may request specific maintenance. Any such request may be made orally, by telephone, or otherwise. If: (i) COUNTY requests maintenance and LANDLORD does not commence the performance of its maintenance obligations within ten (10) days of receiving such request or does not diligently prosecute its obligations to completion thereafter; or (ii) in the case of an emergency, whether or not COUNTY has given notice to LANDLORD, LANDLORD does not immediately perform its obligations, then in both instances, COUNTY may (but is not obligated to) perform LANDLORD'S obligations, in which case, LANDLORD shall reimburse COUNTY the sum actually expended by COUNTY (including but not limited to charges for COUNTY employees and equipment) in the performance of LANDLORD's obligations. The sum expended by COUNTY shall be due from LANDLORD to COUNTY within five (5) days of notice of COUNTY's invoice to LANDLORD along with documentation supporting the expended costs, and if paid at a later date, shall bear interest at the maximum rate COUNTY is permitted by law to charge from the date the sum was paid by COUNTY until COUNTY is reimbursed by LANDLORD. If LANDLORD fails to reimburse COUNTY as required by this paragraph, COUNTY shall have the right to deduct from future Monthly Rent or other sums due the amount COUNTY has paid until COUNTY is reimbursed in full for the sum and interest thereon. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in the Lease.

D. In the event that any maintenance, repair, or replacement by LANDLORD causes, as determined by COUNTY in its sole discretion, the Premises or the Allocated Parking to be inaccessible or the Premises or any portion thereof to be unusable for COUNTY to conduct its operations, Monthly Rent and other sums due under the Lease shall be abated for the commencement of the need for maintenance, repair, or replacement until such time that said maintenance, repair, or replacement is fully completed in proportion to the Premises or portion thereof that is inaccessible or unusable by COUNTY.

E. At COUNTY's election, in its sole discretion, LANDLORD, shall, at LANDLORD's sole cost and expense, hire a licensed, bonded, and qualified property management company to manage the Property and perform LANDLORD'S maintenance obligations as set forth in the Lease. Within fourteen (14) days after the engagement of a property management company, the property manager of the property management company shall inspect the Premises, the Building, and the Property at least every other week to ensure compliance with LANDLORD'S maintenance obligations. COUNTY reserves the right to review the selection of the property management company and to review the engagement agreement.

F. COUNTY, at its sole cost, shall provide janitorial services for the Premises, and keep the interior of the Premises in a clean and tidy condition, reasonable wear and tear excluded.

18. **ASSIGNMENT AND SUBLEASE.** COUNTY shall have the right to assign the Lease or sublease the Premises or any portion thereof with LANDLORD's prior written consent, which consent shall not be unreasonably withheld, delayed, or conditioned. Notwithstanding anything to the contrary in the Lease, at any time during the Lease Term, COUNTY shall have the right, without LANDLORD's consent, to assign the Lease, sublease the Premises or any portion thereof, or share occupancy of the Premises or any portion thereof with any entity under common control with COUNTY, special districts of the COUNTY, and joint powers associations of which the COUNTY is a member; in which event, LANDLORD shall not have the right to share in any rents that exceed the Monthly Rent or to recapture the Premises or any portion thereof.

19. **INDEMNIFICATION.** LANDLORD agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the Lease from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. LANDLORD's indemnification obligation applies to COUNTY's "active" as well as "passive" negligence but does not apply to COUNTY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. The provision of the Lease shall survive the expiration or earlier termination of the Lease.

20. **INSURANCE REQUIREMENTS AND SPECIFICATIONS.**

A. COUNTY is a self-insured public entity for purposes of general liability and workers' compensation

B. LANDLORD agrees to provide insurance set forth in accordance with the requirements herein. If LANDLORD uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, LANDLORD agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, LANDLORD shall secure and maintain throughout the Lease Term the following types of insurance with limits as shown:

(1) Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of LANDLORD and all risks to such persons under the Lease.

If LANDLORD has no employees, it may certify or warrant to COUNTY that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by COUNTY's Director of Risk Management.

If LANDLORD is a non-profit corporation, organized under California or Federal law, volunteers for LANDLORD are required to be covered by Workers' Compensation insurance.

(2) Commercial/General Liability Insurance – LANDLORD shall carry General Liability Insurance covering all operations performed by or on behalf of LANDLORD providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- (a) Premises operations and mobile equipment.
- (b) Products and completed operations.
- (c) Broad form property damage (including completed operations).
- (d) Explosion, collapse and underground hazards.
- (e) Personal injury
- (f) Contractual liability.
- (g) \$2,000,000 general aggregate limit.

(3) Commercial Property Insurance providing all risk coverage for the Premises, Building, fixtures, equipment and all property constituting a part of the Premises. Coverage shall be sufficient to insure One Hundred percent (100%) of the replacement cost.

(4) Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If LANDLORD is transporting one or more non-employee passengers in relation to the Lease, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If LANDLORD owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

(5) Umbrella Liability Insurance - An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing

primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

C. If LANDLORD performs any construction of the Premises on behalf of COUNTY, LANDLORD shall also procure and maintain coverages as follows:

(1) For construction contracts for projects over One Million Dollars (\$1,000,000) and less than Three Million Dollars (\$3,000,000) require limits of not less than Three Million Dollars in General Liability and Auto Liability coverage.

(2) For construction contracts for projects over Three Million Dollars (\$3,000,000) and less than Five Million Dollars (\$5,000,000) require limits of not less than Five Million Dollars (\$5,000,000) in General Liability and Auto Liability coverage.

(3) For construction contracts for projects over Five Million Dollars (\$5,000,000) and less than Ten Million Dollars (\$10,000,000) require limits of not less than Ten Million Dollars (\$10,000,000) in General Liability and Auto Liability coverage.

(4) LANDLORD agrees to require all parties, subcontractors, or others, including, but not limited to, architects, it hires or contracts with in relation to the Lease to provide insurance covering the contracted operations with the requirements in this Paragraph 20, (including, but not limited to, waiver of subrogation rights) and naming COUNTY as an additional insured. LANDLORD agrees to monitor and review all such coverage and assumes all responsibility ensuring that such coverage is provided as required here.

(5) Course of Construction/Installation (Builder's Risk) property insurance providing all risk, including theft coverage for all property and materials to be used on the project. The insurance policy shall not have any coinsurance penalty.

D. Additional Insured – All policies, except for the Workers' Compensation, shall contain endorsements naming COUNTY and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the Lease. The additional insured endorsements shall not limit the scope of coverage for COUNTY to vicarious liability but shall allow coverage for COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

E. Waiver of Subrogation Rights – LANDLORD shall require the carriers of required coverages to waive all rights of subrogation against COUNTY, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit LANDLORD and LANDLORD's employees or agents from waiving the right of subrogation prior to a loss or claim. LANDLORD hereby waives all rights of subrogation against COUNTY.

F. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by COUNTY.

G. Severability of Interests – LANDLORD agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between LANDLORD and COUNTY or between COUNTY and any other insured or additional insured under the policy.

H. Proof of Coverage – LANDLORD shall furnish Certificates of Insurance to COUNTY's RESD administering the Lease evidencing the insurance coverage at the time the Lease is executed, additional endorsements, as required, shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to COUNTY RESD, and LANDLORD shall maintain such insurance from the time the Lease is executed until the expiration or earlier termination of the Lease. Within fifteen (15) days of the Commencement

Date, LANDLORD shall furnish a copy of the declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

I. Acceptability of Insurance Carrier – Unless otherwise approved by COUNTY’s Director of Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum “Best” Insurance Guide rating of “A- VII”.

J, Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by COUNTY’s Director of Risk Management.

K. Failure to Procure Coverage – All insurance required must be maintained in force at all times by LANDLORD. In the event that any policy of insurance required under the Lease does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to cancel the Lease or obtain insurance if it deems necessary and any premiums paid by COUNTY will be promptly reimbursed by LANDLORD or COUNTY payments to LANDLORD will be reduced to pay for COUNTY purchased insurance.

L. Insurance Review – Insurance requirements are subject to periodic review by COUNTY. COUNTY’s Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever COUNTY’s Director of Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of COUNTY. In addition, if COUNTY’s Director of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, COUNTY’s Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against COUNTY, inflation, or any other item reasonably related to COUNTY’s risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to the Lease. LANDLORD agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY RESD or COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY RESD or COUNTY.

M. COUNTY shall have no liability for any premiums charged for such coverage(s). The inclusion of COUNTY as additional named insured is not intended to and shall not make a partner or joint venturer with LANDLORD in LANDLORD's operations.

N. LANDLORD agrees to require all parties, subcontractors, or others it hires or contracts with in relation to the Lease to provide insurance covering the contracted operation with the requirements in this Paragraph 20, (including, but not limited to, waiver of subrogation rights) and naming COUNTY as an additional insured.

21. DESTRUCTION OF PREMISES.

A. In the event the Premises, the Allocated Parking, the Building, the Property, or COUNTY’s access thereto, or any portion thereof, is damaged or destroyed by any casualty, LANDLORD shall, at its sole cost and expense, promptly repair and restore the Premises, the Allocated Parking, the Building, the Property or COUNTY’s access thereto to substantially the same condition as existing immediately prior to the damage or destruction, including, but not limited to: (i) all mechanical, electrical, and plumbing systems serving the Premises, the Building, and the Property; (ii) the heating, ventilation, and air conditioning systems serving the Premises and the Building; (iii) the roof, foundation, and all interior and exterior windows and walls of the Premises and the Building; and (iv) all Improvements constructed in the Premises (whether by LANDLORD or COUNTY) prior to the date of damage or destruction and the Lease shall continue in full force and effect. LANDLORD shall use any and all insurance proceeds received as a result of such casualty for the repair and

restoration of the Premises, provided that LANDLORD's failure to carry any required insurances shall not relieve LANDLORD of its repair and restoration obligation. Notwithstanding the foregoing, LANDLORD shall have no obligation to repair any damage to, or to replace any of COUNTY's personal property, furnishings, fixtures, and equipment, unless such damage is caused by LANDLORD's negligence or intentional misconduct. LANDLORD shall commence the required repair and restoration in a substantial and meaningful way within thirty (30) days of the date of damage or destruction and shall thereafter diligently pursue such repair and restoration to completion within ninety (90) days of commencement of said repair and restoration. For the purposes of this paragraph, the phrase "commence . . . in a substantial and meaningful way" shall mean the unconditional authorization to prepare the plans required for repair and restoration work, the issuance of any required building permits from the relevant governmental authority, or the beginning of actual repair or restoration work. In the event that within thirty (30) days after the casualty date, COUNTY is notified by LANDLORD that the time required to restore the Premises, the Allocated Parking, the Building, the Property, or COUNTY's access thereto, or any portion thereof, is estimated by LANDLORD's licensed and qualified architect, in its professional opinion, to exceed ninety (90) days, COUNTY may, at its option, terminate this Lease immediately upon written notice to the LANDLORD without further obligation by COUNTY.

B. In the event: (i) the Premises, the Allocated Parking, the Building, the Property, or COUNTY's access thereto, or any portion thereof, is damaged or destroyed; (ii) LANDLORD fails to timely commence and complete the repair and restoration required in Paragraph 21.A above; and (iii) COUNTY determines, in its sole discretion, that COUNTY is unable to conduct its operations at the Premises as a result of such damage or destruction, COUNTY shall have the right, at its option, to terminate the Lease effective as of the date the damage or destruction occurred.

C. In the event the Premises, the Allocated Parking, the Building, the Property, or COUNTY's access thereto is damaged or destroyed by any casualty and COUNTY determines, in its sole discretion, that COUNTY is unable to conduct its operations at the Premises as a result of such damage or destruction, the Monthly Rent and any other sums due under the Lease shall be abated in whole or in proportion to the square footage of the Premises, Allocated Parking, or access thereto that are not usable by COUNTY to conduct its business, which abatement shall commence on the date the damage or destruction occurred and shall continue until the date the such damage or destruction is fully restored. In the event undamaged space is available in the Building, LANDLORD shall provide COUNTY with temporary space during the restoration period at no cost to COUNTY.

22. **CONDEMNATION.**

A. Notice. In the event the Property or any portion thereof is taken under the power of eminent domain by a condemning authority or voluntarily transferred to such authority under the threat of the exercise of said power ("Condemnation"), within five (5) days of its receipt of a notice of Condemnation from a condemning authority ("Condemnation Notice"), LANDLORD shall provide COUNTY with a copy of said notice.

B. Total. In the event the entirety of Premises, the Allocated Parking, the Building the Property, or COUNTY's access thereto, is taken by Condemnation, the Lease shall terminate as of the date the condemning authority takes title or possession, whichever first occurs.

C. Partial. In the event that any portion of the Premises, the Allocated Parking, the Building, the Property, or COUNTY's access thereto, is taken by Condemnation and COUNTY determines, in its sole discretion, that COUNTY is unable to conduct its operations at the Premises as a result of such partial taking, COUNTY shall have right, at its option, to terminate the Lease by providing LANDLORD with notice to be given within thirty (30) days after COUNTY's receipt of the Condemnation Notice from LANDLORD, or if LANDLORD fails to provide COUNTY with a Condemnation Notice, within thirty (30) days after the date the condemning authority takes possession. If COUNTY does not exercise its right to terminate the Lease as provided herein, the Lease shall continue in full force and effect, except that if a portion of the Premises was taken, the Premises shall be reduced by the portion taken and the Monthly Rent and any other sums due under the Lease shall be reduced in the same proportion as the floor area of the Premises taken bears to the original floor area of the Premises and if the Allocated Parking, COUNTY's access, or other portions of the Property affecting COUNTY's use of the Premises was partially taken, the Monthly Rent and other sums due shall be equitably adjusted. In addition, LANDLORD shall within thirty (30) days make all repairs or alterations to the Premises, Building, and

Property required as a result of the Condemnation to restore the remaining portions thereof to substantially the same conditions as existing immediately prior to the Condemnation and in accordance with the provisions of the Lease.

D. Awards. COUNTY shall be entitled to receive the following amounts of any award for the taking of the Premises or any portion thereof under Condemnation, whether from LANDLORD or by separate claim to the condemning authority, with COUNTY having the right to negotiate directly with the condemning authority for such award, (i) one hundred percent (100%) of any amount attributable to any excess of the market value of the Premises for the remainder of the Lease Term over the present value as of the date the Lease is terminated of the Monthly Rent payable for the remainder of the Lease Term (commonly referred to as the "bonus value" of the Lease); (ii) the amortized or undepreciated value of any Improvements and trade fixtures owned by COUNTY and the removal and relocation costs of such Improvements and trade fixtures; (iii) relocation costs; (iv) loss of goodwill, and (v) any other permitted under condemnation law.

23. **LANDLORD'S DEFAULT.** Except where another time period is specifically provided, LANDLORD shall be in default of the Lease if LANDLORD fails or refuses to perform any material provisions of the Lease and such failure or refusal to perform is not cured within thirty (30) days following LANDLORD's receipt of written notice of default from COUNTY; provided however, if the nature of the default is such that it cannot reasonably be cured within thirty (30) days, LANDLORD shall not be in default of the Lease if LANDLORD commences to cure the default within the thirty (30) day period and thereafter diligently and in good faith prosecutes such cure to completion, provided that such completion shall not exceed sixty (60) days after LANDLORD's receipt of COUNTY notice.

24. **COUNTY'S REMEDIES ON LANDLORD'S DEFAULT.** COUNTY may, at any time after LANDLORD is in default beyond any applicable notice and cure period, terminate the Lease immediately upon written notice to LANDLORD without further liability. Alternatively, COUNTY may, at its option and in its sole discretion, after notice to LANDLORD, cure LANDLORD's default. If COUNTY elects to cure LANDLORD's default, LANDLORD shall reimburse COUNTY the sum actually expended by COUNTY (including but not limited to charges for COUNTY employees and equipment) in curing LANDLORD's default. The sum expended by COUNTY shall be due from LANDLORD to COUNTY within five (5) days of notice of COUNTY's invoice to LANDLORD along with documentation supporting the expended costs, and if paid at a later date, shall bear interest at the maximum rate COUNTY is permitted by law to charge from the date the sum was paid by COUNTY until COUNTY is reimbursed by LANDLORD. If LANDLORD fails to reimburse COUNTY as required by this paragraph, COUNTY shall have the right to withhold from future Monthly Rent and other sums due the amount COUNTY has paid until COUNTY is reimbursed in full for the sum and interest on it. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in the Lease.

25. **COUNTY'S DEFAULT.** The occurrence of any one or more of the following events shall constitute a material default of the Lease by COUNTY: (i) vacating or abandoning the Premises for more than thirty (30) consecutive days while Monthly Rent is concurrently in arrears; or (ii) failure by COUNTY to perform any material provisions of the Lease to be performed by COUNTY, including the payment of Monthly Rent, where such failure is not cured within thirty (30) days following COUNTY's receipt of written notice of default from LANDLORD; provided, however, if the nature of the default is such that it cannot reasonably be cured within thirty (30) days, COUNTY shall not be in default of the Lease if COUNTY commences to cure the default within the thirty (30) day period and thereafter diligently and in good faith prosecutes such cure to completion. The purpose of this notice requirement is to extend the notice requirements of the unlawful detainer statutes of California.

26. **LANDLORD'S REMEDIES ON COUNTY'S DEFAULT.** LANDLORD may, at any time after COUNTY is in default beyond any applicable notice and cure period, exercise any and all remedies available pursuant to law or granted pursuant to the Lease; provided, however, that notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Monthly Rent or other sums due or otherwise declare any Monthly Rent or other sums due to be immediately payable. Each and every covenant hereof to be kept and performed by COUNTY is expressly made a condition and upon the default thereof LANDLORD may, at its option, terminate the Lease, provided that LANDLORD shall use reasonable efforts to mitigate its damages. In the event of such default beyond any applicable notice and cure period, COUNTY shall continue to remain liable for the payment of the Monthly Rent, other sums due, and/or damages for default of the Lease; in which case,

such Monthly Rent, other sums, and/or damages shall be payable to LANDLORD only at the same time and in the same manner as provided for the payment of Monthly Rent.

27. **LANDLORD'S ENTRY TO PREMISES.** Upon not less than twenty-four (24) hours prior written notice to COUNTY and subject to Paragraph 32, LANDLORD and its authorized employees, contractors, and agents shall have the right to enter the Premises at all reasonable times during COUNTY's normal business hours, excluding any COUNTY holidays, for any of the following purposes: (i) to determine COUNTY's compliance with its obligations under the Lease; (ii) to perform any necessary maintenance, repair, and restoration of the Premises pursuant to the Lease; (iii) to serve, post, or keep posted any notices required by law, (iv) to post "for sale" signs at any time during the Lease Term or to post "for rent" or "for lease" signs during the last three (3) months of the Lease Term, provided such signs do not unreasonably interfere with the conduct of COUNTY operations and (v) to show the Premises to prospective brokers, agents, buyers, tenants, lenders or persons interested in an exchange. LANDLORD's entry shall be made with COUNTY's prior approval and in a manner that will cause the least possible inconvenience, annoyance, or disturbance to COUNTY.

28. **SURRENDER.** Upon the expiration or earlier termination of the Lease, COUNTY shall surrender the Premises in as good a condition as received on the Commencement Date, excluding reasonable wear and tear, LANDLORD's obligations pursuant to the Lease, casualty damages, and the removal of the Improvements and any other improvements or alterations in accordance with the Lease. In the event, COUNTY has pre-paid any Monthly Rent or other sums for the Premises, LANDLORD shall, within thirty (30) days after the expiration or earlier termination of the Lease, return to COUNTY any unearned Monthly Rent or other sums.

29. **ESTOPPEL CERTIFICATES.** In the event of a sale or financing of the Property by LANDLORD or an assignment of the Lease or leasehold financing by COUNTY, the LANDLORD or COUNTY, as the case may be, shall execute an estoppel certificate to the requesting party's purchaser, assignee, or lender, as the case may be, which estoppel certificate shall substantially be in the form of Exhibit "E", attached hereto and incorporated herein, to confirm those certain terms of the Lease. COUNTY's RESD Director shall have the authority on behalf of COUNTY to execute an estoppel certificate substantially in the form of Exhibit "E".

30. **SUBORDINATION AND ATTORNMENT.**

A. As a condition precedent to COUNTY's obligations under the Lease, LANDLORD shall obtain from each holder of a lien or encumbrance on the Premises which is senior to the Lease either an executed recordable subordination agreement which subordinates such lien or encumbrance to the Lease, or a non-disturbance agreement, substantially in the form of the attornment provisions in Exhibit "F", attached hereto and incorporated herein by reference.

B. If, after execution of the Lease, a subsequent lienor requires that the Lease be subordinate to any such encumbrance, the Lease shall be subordinate to that encumbrance if, and only if, LANDLORD first obtains from the subsequent lienor an executed subordination, nondisturbance and attornment agreement ("SNDA"), substantially in the form of Exhibit "F". COUNTY's RESD Director shall have the authority on behalf of COUNTY to execute a SNDA substantially in the form of Exhibit "F".

31. **PUBLIC RECORDS DISCLOSURE.** LANDLORD acknowledges and agrees that all information received by COUNTY from LANDLORD or any source concerning the Lease or the Property, including the Lease itself, may be treated by COUNTY as public information, subject to disclosure under the provisions of the California Public Records Act (Government Code Section 6250 *et seq.*), the Ralph M Brown Act, or any other open records laws ("Public Records Laws"). LANDLORD further acknowledges and agrees that, although all information received by COUNTY in connection with the Lease or the Property are intended for the exclusive use of COUNTY, such information is potentially subject to disclosure under Public Records Laws. In the event LANDLORD, at the time any information is provided to COUNTY, has reasonably requested in writing that certain information as to the Lease or the Property be held in confidence and a request for disclosure of such information is thereafter received by COUNTY, COUNTY shall endeavor to notify LANDLORD of said request and shall thereafter disclose the requested information unless LANDLORD, within five (5) days of COUNTY's notice of such disclosure request: (i) requests that the information not be disclosed; (ii) provides a legally sound basis for nondisclosure (as determined in COUNTY's sole discretion); and (iii) agrees in writing to indemnify, defend (with counsel reasonably approved by

COUNTY), and hold harmless COUNTY and its officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of or related the required disclosure. Notwithstanding anything to the contrary in the Lease, if COUNTY does not notify LANDLORD of such disclosure request or if COUNTY does not deem LANDLORD's basis for nondisclosure to be legally sufficient, as determined by COUNTY in its sole discretion, COUNTY shall not be liable for any claims for damages, lost profits, or other injuries of any and all kinds and LANDLORD waives any and all such claims against COUNTY. LANDLORD's indemnity obligation shall survive the expiration or earlier termination of the Lease.

32. **CONFIDENTIALITY.** LANDLORD acknowledges that the Premises will be used by COUNTY for the processing and storage of confidential information that is protected from unlawful access and disclosure by municipal, county, state, and federal laws ("Confidential Information"). LANDLORD and its officers, agents, volunteers, employees, contractors, and any third parties under LANDLORD's control (including, but not limited, to property management, maintenance, and custodial providers) hereby agree to comply with all applicable municipal, county, state, and federal laws pertaining to the security and protection of Confidential Information and will prevent and not permit any unlawful access to or disclosure of Confidential Information when entering the Premises as permitted by the Lease. Prior to any permitted entry of the Premises, except in the event of a life-threatening emergency or an imminent and substantial destruction of the Premises, LANDLORD and its officers, agents, volunteers, employees, contractors and any third parties under LANDLORD's control shall: (i) provide not less than twenty-four (24) hours prior written notice of its desired entry; (ii) enter only during COUNTY's normal business hours; (iii) be escorted by COUNTY during its entry; and (iv) remain in the Premises only for so long as reasonably necessary to complete LANDLORD's obligations under the Lease. Should it be necessary for LANDLORD to enter the Premises due to a life-threatening emergency or imminent and substantial destruction of the Premises, LANDLORD and its agents, volunteers, employees, contractors, and any third parties under LANDLORD's control shall: (a) immediately notify COUNTY of such entry, (b) remain in the Premises only for so long as reasonably necessary to abate such emergency or destruction, and (c) upon departure, secure the Premises in the same manner as the Premises were secured upon entry, (i.e., arming alarm system and locking entry points). During any permitted entry of the Premises, LANDLORD and its officers, agents, volunteers, employees or any third parties under LANDLORD's control shall not access, disclose, or remove any Confidential Information from the Premises, including but not limited to, access of file cabinets, locked storage rooms, and desks. Any entry of the Premises that does not comply with the requirements of this paragraph is unauthorized. LANDLORD agrees to include the entry requirements contained in this paragraph in its agreements with all third party providers who may enter the Premises. LANDLORD acknowledges that any unlawful access to or disclosure of Confidential Information may result in the imposition of civil and criminal sanctions

33. **FORMER COUNTY OFFICIALS.** LANDLORD has set forth on Exhibit "G" of the Lease certain information on former COUNTY administrative officials (as defined below) who are employed by or represent LANDLORD. The information provided includes a list of the full names of former COUNTY administrative officials who terminated COUNTY employment within the last five years and who are now officers, principals, partners, associates or members of LANDLORD. The information should also include the title/description of the official's last position with COUNTY, the date the official terminated COUNTY employment, the official's current employment and/or representative capacity with LANDLORD, and the date the official entered LANDLORD's employment and/or representation. For purposes of this provision, "COUNTY administrative official" is defined as a member of the Board of Supervisors or such officer's staff, COUNTY Administrative Officer or member of such officer's staff, COUNTY department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

34. **MATERIAL MISREPRESENTATION.** If during the Lease Term, COUNTY determines that LANDLORD has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to COUNTY, COUNTY shall have the right, at its option, to terminate the Lease with immediately effect; in which case, COUNTY shall be entitled to pursue any available remedies under the Lease, at law, or in equity.

35. **NOTICES.**

A. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party, including but not limited to, notices required under the California unlawful

detainer statutes, or any other person shall be in writing and either served personally, delivered by a reputable overnight courier service, or sent by postage prepaid, first-class United States mail, certified or registered, return receipt requested. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be addressed to the other party at the addresses set forth in the Basic Lease Provisions. Either party may change its address by notifying the other party of the change of address. Notices shall be deemed delivered upon the earlier of: (i) actual receipt if such notice is personally delivered; (ii) the date of delivery if such notice is delivered by a reputable overnight courier service; or (iii) the date of delivery or refusal of the addressee to accept delivery if such notice is sent by postage pre-paid, first-class United States mail, certified or registered, return receipt requested. Any notices received after 5 pm local time on a business shall be deemed delivered on the following business day.

B. If, at any time after the Commencement Date, LANDLORD intends to transfer its ownership interest (whether controlling or non-controlling) in the Property to a third party, LANDLORD shall notify COUNTY of such transfer at least fifteen (15) COUNTY working days prior to completion of such transfer. In the event of a transfer of controlling interest in the Property, LANDLORD and the new owner shall provide COUNTY with evidence of completion of transfer; in which case, the new owner and COUNTY shall document by written amendment said change of ownership. In addition, the new owner shall, within five (5) of acquiring the Property, provide COUNTY with evidence that it has obtained insurance in compliance with Paragraph 19, INDEMNIFICATION and Paragraph 20, INSURANCE REQUIREMENTS AND SPECIFICATIONS. The COUNTY's RESD Director shall have the authority on behalf of COUNTY to execute a COUNTY standard amendment to this Lease with any new LANDLORD solely for the purposes of reflecting any changes in the legal ownership of the Property and to update the LANDLORD's notice address in the Basic Lease Provisions. The new LANDLORD acknowledges and agrees new LANDLORD execution of such COUNTY standard amendment is a pre-requisite for Rents under this Lease to be paid to the new LANDLORD.

36. **BROKER'S COMMISSIONS.** LANDLORD is solely responsible for the payment of any commissions to any broker who has negotiated or otherwise provided services in connection with the Lease and shall indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of or related to LANDLORD's default of this obligation. LANDLORD's indemnity obligation under this Lease shall survive the expiration or earlier termination of the Lease.

37. **ATTORNEYS' FEES AND COSTS.** If any legal action is instituted to enforce or declare a Party's rights hereunder, each Party, including the prevailing Party, must bear its own attorneys' fees and costs. This paragraph shall not apply to those attorneys' fees and costs directly arising from any third party legal action against COUNTY, including such attorneys' fees and costs payable under Paragraph 13, HAZARDOUS SUBSTANCES, Paragraph 19, INDEMNIFICATION, Paragraph 31, PUBLIC RECORDS DISCLOSURE; and Paragraph 32, CONFIDENTIALITY.

38. **NO PARTNERSHIP.** Neither Party shall, in any way or for any purpose, become a partner of the other Party in the conduct of its business, or otherwise, or joint venturer or a member of a joint enterprise with the other Party as a result of execution of the Lease.

39. **BINDING EFFECT.** The Lease is binding upon and inures to the benefit of the Parties and their respective successors, assigns, heirs, executors, and administrators.

40. **JOINT AND SEVERAL LIABILITY.** In the event that one or more individuals and/or entities comprise LANDLORD, all obligations of each individual and/or entity named as LANDLORD under the Lease are joint and several and may not be waived or apportioned except by written consent of COUNTY. COUNTY may recover monies due or remedies available from any one or all individuals and/or entities named as LANDLORD under the Lease at COUNTY's sole option.

41. **SURVIVAL.** The obligations of the Parties that, by their nature, continue beyond the term of the Lease, will survive the expiration or earlier termination of the Lease.

42. **QUIET ENJOYMENT.** Provided that COUNTY is not in default beyond any applicable notice and cure periods, COUNTY shall, at all times during the Lease Term, have quiet and peaceful possession and enjoyment of the Premises against any persons claiming by, through or under LANDLORD or any third parties.
43. **TIME OF ESSENCE.** Time is of the essence of each provision of the Lease which specifies a time within which performance is to occur. In the absence of any specific time for performance, performance may be made within a reasonable time.
44. **CONSENT.** Unless otherwise expressly provided otherwise in the Lease, whenever consent or approval of either Party is required, that Party shall not unreasonably withhold, condition, or delay such consent or approval.
45. **INTERPRETATIONS.** As the Lease was jointly prepared by the Parties, the language in all parts of the Lease shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.
46. **HEADINGS.** The headings of any paragraphs, sub-paragraphs, table of contents, and cover page of the Lease are for convenience and reference only and shall have no effect on its interpretation.
47. **PROVISIONS ARE COVENANTS AND CONDITIONS.** All provisions, whether covenants or conditions, on the part of either Party shall be deemed to be both covenants and conditions.
48. **LAW.** The Lease shall be governed by and construed in accordance with the laws of the State of California.
49. **VENUE.** The parties acknowledge and agree that the Lease was entered into and intended to be performed in the County of San Bernardino, California. The parties agree that the venue for any action or claim brought by any party to the Lease will be the Superior Court of California, County of San Bernardino. Each party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claim concerning the Lease, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino.
50. **EXHIBITS.** All exhibits referred to in the Lease are attached hereto and incorporated herein by reference.
51. **ENTIRE AGREEMENT.** The Lease contains the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof.
52. **AMENDMENTS.** The Lease shall not be amended or modified except by written agreement executed by the Parties.
53. **WAIVERS.** No waiver by either Party of any provisions of the Lease shall be effective unless given in writing by such Party and a waiver given in one instance shall not be deemed to be a waiver of any other provision hereof or of any subsequent default by either party of the same or any other provisions.
54. **SEVERABILITY.** If any word, phrase, clause, sentence, paragraph, section, article, part or portion of the Lease is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of the Lease or any other portion thereof.
55. **COUNTERPARTS.** The Lease may be executed in counterparts with the same effect as if the Parties hereto had executed the same document, and all such counterparts together shall constitute a single document.
56. **IN KIND AND COST SHARING REPORTING.** As a condition of this Lease, LANDLORD shall provide reports to COUNTY for the value of in-kind services, including any volunteer services and parking area on a monthly and annual basis per program year, as a part of the COUNTY's Preschool Services Department's non-

federal share of costs for Federal funding. These reports are required by the U.S. Department of Health and Human Services – Head Start Program Performance Standards, 45-CFR-1304.

A. “Third party in-kind contributions means property or services which benefit a grant supported project or program and which are contributed by non-Federal third parties without charge to the grantee, sub-grantee or a cost-type contractor under the grant or sub-grant.” (HDS-Attachment A, Title 45: Subpart G:74.51

B. “Third party in-kind contributions shall count towards satisfying a cost-sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.” (HDS-Attachment A, Title 45: Subpart G:74.53)

C. The parties hereto agree the value of in-kind contributions at the portions of the parking areas at the Property usable by COUNTY for the Premises (including, but not limited to, the Allocated Parking) equate to \$38,499 per year for the following:

Portion of Parking Area – 9,436 sq. ft. @ \$0.34/sq. ft./month or \$38,499 annually

D. At each third anniversary of the Commencement Date, COUNTY shall have the right to review the value of the in-kind contributions of the portions of parking areas at the Property usable by COUNTY for the Premises and adjust the value based on evaluation of comparable parking areas in the County of San Bernardino. If the value of the in-kind contribution is adjusted in accordance with the foregoing, the parties shall execute an amendment to the Lease to set forth the adjusted value.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

57. **AUTHORIZED SIGNATORS.** The Parties to the Lease represent that the signatories executing this document are fully authorized to enter into this agreement.

IN WITNESS WHEREOF, the parties hereto have caused the Lease to be executed.

COUNTY:
COUNTY OF SAN BERNARDINO

**LANDLORD: POTOMAC PLAZA, LLC, a
California limited liability company**

By: 
Curt Hagman, Chairman
Board of Supervisors

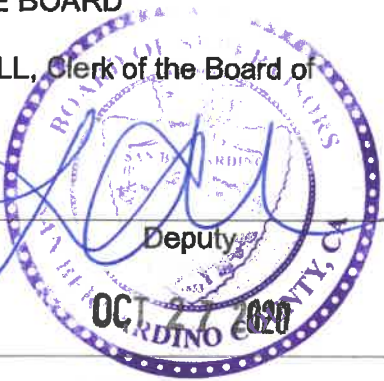
By: 
Joon Shik Choi

Date: OCT 27 2020

Title: Manager
Date: 10-16 2020.

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

LYNNA MONELL, Clerk of the Board of
Supervisors
By: 
Deputy



Date: _____

Type text here

Approved as to Legal Form:

MICHELLE D. BLAKEMORE, County Counsel
San Bernardino County, California

By: 
Agnes Cheng, Deputy County Counsel

Date: 10/15/2020

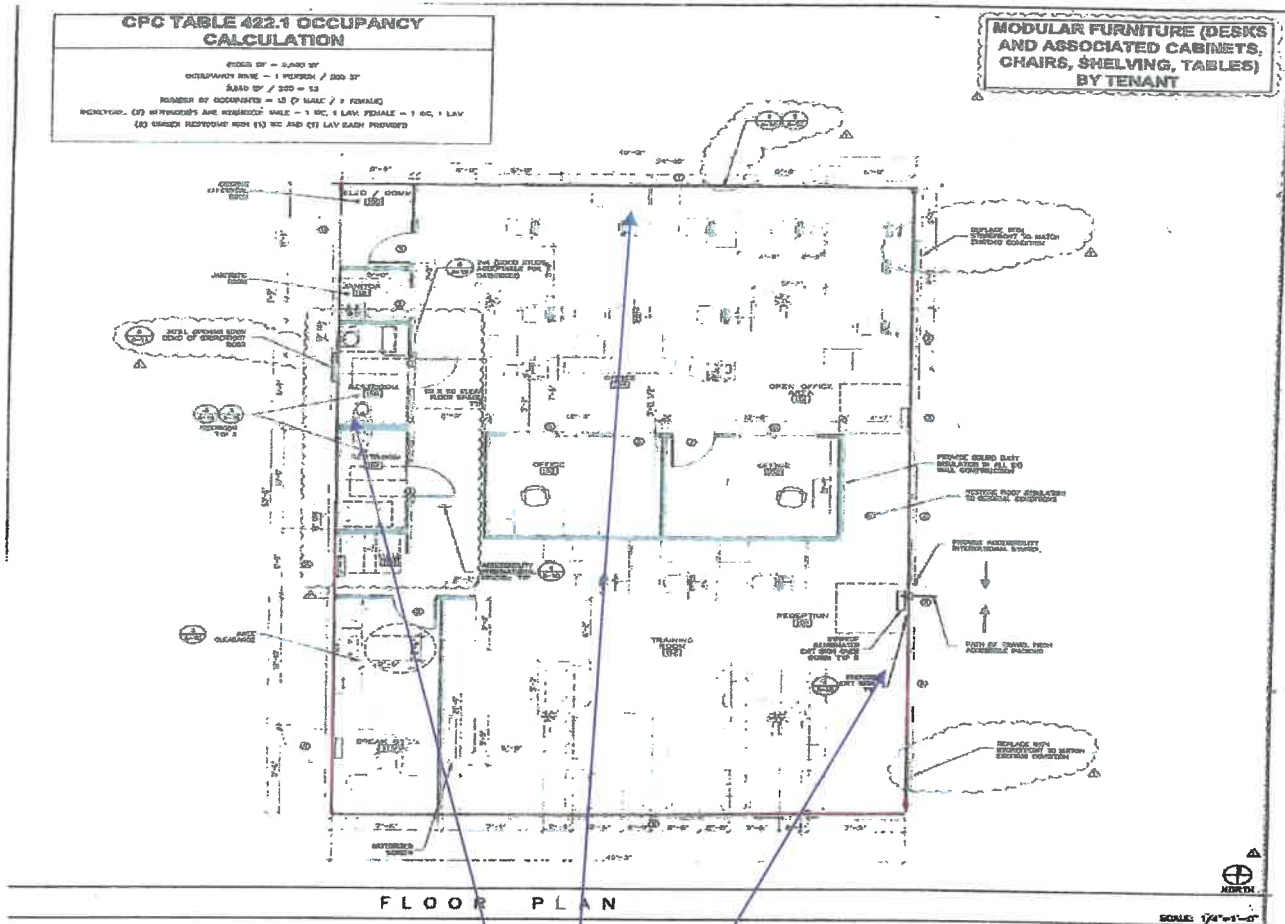
EXHIBIT "A"
BUILDING AND PARKING AREAS



Parking Areas

**2376 Del Rosa Ave.
(The Premises are the
entire interior space
of the building at 2376
Del Rosa Ave. as shown
As the Floor Plan on Exhibit
A-1.)**

EXHIBIT "A-1" PREMISES



Premises (interior space within the red lines)

EXHIBIT "B"

IMPROVEMENT WORK LETTER

Concurrently with the execution of this Improvement Work Letter, LANDLORD and COUNTY have entered into the Lease for the Premises. All terms not defined herein have the same meaning as set forth in the Lease. To the extent applicable, the provisions of the Lease are incorporated herein by this reference.

1. LANDLORD shall, at its sole cost and expense, construct the improvements ("Improvements") at the Premises and, if applicable, at the Building and the Property in accordance with the plans and specifications set forth on Exhibit B-1, attached hereto and incorporated herein by reference (the "Improvement Specifications"), this Improvement Work Letter, and the Lease, including but not limited to Paragraph 12, LEGAL COMPLIANCE, provided that the cost of the Improvements shall be payable in accordance with Paragraph 16 of this Exhibit "B-1" and shall not be amortized over the Lease Term. Any increase in the cost of the Improvements after the mutual execution of the Lease shall be LANDLORD's sole responsibility regardless of cause except if such cost increase is due to a COUNTY Change Order (as later defined).

2. LANDLORD shall, at its sole cost and expense, furnish all of the design, material, labor and equipment required to construct the improvements and shall apply for and obtain, all permits, licenses, certificates, and approvals necessary for the construction of the Improvements. LANDLORD shall provide all site plans for the Premises, the Building, and the Property, including Building elevations and exterior finishes, space design plans, construction plans, and a complete set of the bid drawings and specifications. The bid drawings shall be provided to COUNTY on reproducible transparent vellum with the architect's/engineer's professional stamp and signature and on a compact disc-recordable (CD-R) in an Adobe Acrobat file format (.pdf file extension) and on AutoCAD software (.dwg file extension). The plans and specifications for the Improvements shall be submitted as a reproducible hardcopy and copied on a CD-R with formats compatible with Microsoft Word.

3. LANDLORD shall not modify the Improvements without obtaining the prior written consent of the COUNTY's RESD representative, as the authorized COUNTY agent for the Improvements which shall not be unreasonably withheld, conditioned, or delayed. In the event LANDLORD makes any modifications to the Improvements without COUNTY's prior written consent, COUNTY shall have no liability for any costs incurred and LANDLORD shall be solely responsible for said costs and for any costs incurred to return the affected portion of the Improvements to its original specifications. During construction of the Improvements, if COUNTY's authorized COUNTY RESD representative proposes any modifications to or additional work that are not set forth in Exhibit "B-1", Improvement Specifications, LANDLORD shall, prior to commencing any proposed work, promptly provide pricing and schedule impacts to COUNTY for the proposed work. If the parties mutually agree to proceed with the proposed modification or additional work to the Improvements ("COUNTY Change Order Work"), the authorized representatives of the Parties shall execute a change order document ("COUNTY Change Order") setting forth the agreed specifications, costs, and schedule impact, if any, for the COUNTY Change Order Work and LANDLORD shall promptly complete said COUNTY Change Order Work. In addition to the cost of the COUNTY Change Order Work, COUNTY shall pay LANDLORD an administrative fee calculated at ten percent (10%) of the cost of the COUNTY Change Order Work. Upon LANDLORD's Substantial Completion of the COUNTY Change Order Work and acceptance of the Improvements for COUNTY's intended use, subject to latent defects and the representations, warranties, and provisions of the Lease. COUNTY shall pay LANDLORD for the COUNTY Change Order Work by separate purchase order (and not by amortization into the rent) within ninety (90) days after COUNTY's receipt of an itemized invoice, proof of payment, lien releases, and any other documents reasonably requested by COUNTY for the COUNTY Change Order Work, provided that such payment shall in no event be billable nor due prior to the Commencement Date. The authorized COUNTY RESD representative may process one or more COUNTY Change Orders in accordance with this Paragraph 3 of Exhibit "B", provided that, notwithstanding anything to the contrary in the Lease or this Improvement Work Letter, the cumulative total of all agreed COUNTY Change Orders shall not exceed Forty-Five Thousand Dollars (\$45,000.00). Any proposed COUNTY Change Order(s) that cause the cumulative total of all agreed COUNTY Change Orders to exceed Forty-Five thousand Dollars (\$45,000.00) shall be processed by a mutually agreed amendment to the Lease that is executed by the parties.

4. In the event LANDLORD contracts for the construction of the Improvements or any portion thereof, LANDLORD shall comply with the provisions of the California Public Contract Code 22000 through 22045 regarding bidding procedures and Labor Code Section 1720.2 and 1770 et seq. regarding general prevailing wages, including, but not limited to, those requirements set forth on Exhibit "H", attached hereto and incorporated herein by reference. LANDLORD shall indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, employees, agents, and contractors from any and all claims, actions, losses, damages and/or liability arising out of or related to the obligations set forth in this paragraph. LANDLORD's indemnity obligations shall survive the expiration or earlier termination of the Lease and such obligations shall not be limited by the existence or availability of insurance.

5. Following the mutual execution of the Lease, LANDLORD shall promptly and diligently proceed with the construction of the Improvements and use reasonable speed, diligence and good faith efforts to: (i) Substantially Complete the Improvements, subject only to minor punchlist items as mutually agreed by the Parties; (ii) COUNTY's receipt of a final certificate of occupancy for the Premises, and if applicable, the Building and the Property, issued by all relevant governmental authorities; and (iii) written confirmation by an authorized agent of COUNTY that the Improvements were completed in accordance with the Improvement Specifications but without waiver as to any defects, representations and warranties, and warranties set forth in the Lease on or prior to the Projected Commencement Date..

6. All punchlist items shall be completed by LANDLORD within thirty (30) days after the Commencement Date of the Lease. In the event that LANDLORD fails to complete said punchlist items within said thirty (30) days and the Commencement Date has occurred, for the period of time from the Commencement Date through the time that the punchlist items are all completed, COUNTY shall only pay eighty percent (80%) of the Monthly Rent and other sums due under the Lease with the remaining twenty percent (20%) of the Monthly Rent and other sums due to accrue but shall not be paid to LANDLORD until all such punchlist items have been completed and agreed by COUNTY. If COUNTY withholds Monthly Rent or other sums due under this paragraph, COUNTY shall not be in default of the Lease and no interest or service charges shall be added to the amounts due LANDLORD upon completion of the punchlist items.

7. In order to meet the Projected Commencement Date, the Parties agree on the following schedule for each of the construction milestones.

<u>Milestones</u>	<u>Projected Milestone Completion Date</u>	<u>Critical Milestone Completion Date</u>
Preparation and submittal of Building and site plans to the City of San Bernardino ("City")	N/A	
Approval and permit Issuance of Building and site plans by City agencies	N/A	
Lot split approval	N/A	
Improvement plan preparation and submittal to City	N/A	
Permit Issuance for Improvements	October 1, 2020	October 15, 2020
Site work and Building construction	January 31, 2021	February 15, 2021
Construction of Improvements and Finally Certified for Occupancy by City	April 1, 2021	April 1, 2021

8. LANDLORD shall provide COUNTY with a written progress report every thirty (30) days during the construction of the Improvements. The report shall contain the most current information regarding progress, completions, and delays for each milestone of the construction schedule. LANDLORD shall further provide COUNTY with written notice upon LANDLORD's completion of each milestone of the above construction schedule. COUNTY and its representatives shall be given reasonable notice of and may attend all project meetings, including all design review meetings and construction meetings. At COUNTY's option, LANDLORD shall meet with COUNTY monthly (or more frequently if reasonably required by COUNTY) to provide detailed progress reports.

9. LANDLORD acknowledges and agrees that its failure to meet any of the above Projected or Critical Milestone Completion Date(s) will mean that LANDLORD will not be able to deliver the Premises with all Improvements completed as required by this Lease by the Projected Commencement Date. LANDLORD further acknowledges and agrees that late delivery to COUNTY of the Premises with all Improvements completed as required by this Lease will cause COUNTY to incur costs not contemplated by the Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Therefore, if LANDLORD fails to meet any of the above Projected or Critical Milestone Completion Date(s) or fails to deliver the Premises with all Improvements completed as required by this Lease by the Projected Commencement Date, LANDLORD agrees to pay COUNTY liquidated damages in the amount of Two Hundred and 00/00 Dollars (\$200.00) for each day of delay, commencing on the day immediately following the Projected Commencement Date until the earlier of the day the Commencement Date actually occurs or COUNTY exercises its right to terminate this Lease in accordance with this Exhibit "B-1". The parties agree that this amount for liquidated damages represents a fair and reasonable estimate of the costs that COUNTY will incur by reason of late completion of the Improvements as required by this Lease. Acceptance of any amount of liquidated damages shall not constitute a waiver of LANDLORD's default or prevent COUNTY from exercising any of the other rights and remedies available to COUNTY at law or in equity

10. In the event that LANDLORD fails to meet any of the above Projected or Critical Milestone Completion Date(s) or does not deliver the Premises with all Improvements completed as required by this Lease by the Projected Commencement Date, COUNTY shall further have the right to elect to terminate the Lease upon written notice to LANDLORD; in which event, neither Party shall have any further obligations to the other, except for those obligations that expressly survive the termination of the Lease. In the event that COUNTY elects to so terminate the Lease, COUNTY's election shall be in writing and shall be given after the subject Projected or Critical Milestone Completion Date or the Projected Commencement Date has been missed but prior to LANDLORD's completion of the subject milestone or the occurrence of the Commencement Date and LANDLORD's notification of the same to COUNTY.

11. Notwithstanding Paragraphs 7, 9, and 10 of this Improvement Work Letter, in the event LANDLORD, after exercising all due diligence, is unable to meet any of the above mentioned Projected or Critical Milestone Completion Dates or the Projected Commencement Date due to reasons which LANDLORD proves are solely and directly caused by COUNTY, then the Projected or Critical Milestone Completion Date(s) and/or the Projected Commencement Date shall be extended for a period equivalent to the period of such delay, provided that as soon as LANDLORD becomes aware or should in the exercise of due diligence have become aware of any facts or circumstances that may or will cause such a delay, LANDLORD shall immediately provide written notice to COUNTY of any such delay or anticipated delay. In the event LANDLORD fails to timely notify COUNTY in writing of any such delay or anticipated delay, the provisions of this Paragraph 11 of this Exhibit "B" shall not apply to such delay or anticipated delay and the Projected or Critical Milestone Completion Dates and/or the Projected Commencement Date shall remain unmodified.

12. Until the Improvements are completed as required by this Lease and all minor punchlist items have been completed, LANDLORD understands and agrees that LANDLORD shall not sell the Property, assign the Lease, or transfer a controlling interest in LANDLORD person or entity or the Premises to a third party ("Transfer") without COUNTY's prior review and written approval. In the event LANDLORD desires to make a Transfer, LANDLORD shall submit a written request to COUNTY along with all relevant documents regarding the proposed Transfer to COUNTY for its review and consent. COUNTY's consent shall be deemed denied in the event

COUNTY does not respond to LANDLORD's Transfer request. In the event COUNTY consents to LANDLORD's Transfer request, the parties shall execute an amendment to the Lease to confirm the Transfer.

13. During construction of the Improvements, LANDLORD shall allow COUNTY to: (i) have early access ("Early Access") to the Premises at no cost and at any time prior to the Commencement Date for the purpose of COUNTY or its representatives installing communications equipment, modular furniture, alarms and such other items that COUNTY may reasonably desire and to inspect the status of the construction of the Improvements, provided that nothing herein contained shall be construed as creating an obligation upon COUNTY to make such inspections, and it is LANDLORD 's obligation to insure that the Improvements are completed in compliance with the plans and specifications. COUNTY shall exercise its Early Access rights at a time and in a manner that will not unreasonably interfere with LANDLORD's construction of the Improvements and any such Early Access shall not affect the Commencement Date or the Expiration Date; and/or (iii) have early use ("Early Use") of the Premises or any portion thereof at any time prior to the Commencement Date. COUNTY shall exercise its Early Use rights at a time and in a manner that will not unreasonably interfere with LANDLORD's construction of the Improvements. If COUNTY exercises its Early Use rights as to the Premises or any portion thereof, the terms of the Lease shall be in effect, provided if COUNTY's Early Use is as to a portion of the Premises, Monthly Rent shall be pro-rated based on the area of COUNTY's Early Use and such Early Use or vacation thereof shall not constitute COUNTY's acceptance of the Premises or the Improvements or any portion thereof as complete as required by this Lease. Any such Early Use shall not affect the Commencement Date or the Expiration Date. All other terms of the Lease shall, however, be in effect during such period.

14. For a period of two (2) years from Commencement Date, the Improvements shall be warranted by LANDLORD against defects in design, materials and workmanship. Without limiting LANDLORD's repair obligations to the extent expressly set forth in the Lease, LANDLORD shall, at LANDLORD's expense, promptly repair or replace any such defective Improvement evidenced by written notice from COUNTY to LANDLORD within such two (2) year period.

15. During the Lease Term, LANDLORD warrants the Improvements against all latent defects and the failure of the Improvements to be completed in accordance with the plans and specifications and as required by this Lease. The warranties set forth in Paragraph 14 and Paragraph 15 of this Exhibit "B" cover all design, labor, materials and equipment required to perform any required repairs or other remediation resulting from the breach of any such warranty. Upon and following Commencement Date, LANDLORD shall enforce for the benefit of COUNTY all such warranties and guarantees relating to the Improvements and all equipment and building systems comprising a LANDLORD portion of the Improvements. LANDLORD 's failure to honor any such warranty made by LANDLORD shall be a default by LANDLORD under the Lease.

16. COUNTY shall make three (3) progress payments for the Improvements in a total amount not to exceed One Hundred Fifty-One Thousand Eight Hundred Ninety-Four and no/100 Dollars (\$151,894.00) as follows:

60% (\$91,136.00)- Invoice presented to LANDLORD upon completion of rough framing, electrical and plumbing in accordance with Exhibits B and B-1 and this Lease and receipt of applicable governmental approvals for all of the foregoing work, as evidenced by approval of each portion of the work by inspection by the City of San Bernardino Building Department

30% (\$45,568.00)-billable upon completion of interior mill work in accordance with Exhibits B, B-1 and this Lease, as mutually agreed by the parties

10% (\$15,190.00)- billable upon the occurrence of the Commencement Date

For each progress payment, LANDLORD shall submit invoices, supporting documents, proof of payment of LANDLORD's contractors, and any additional information requested by COUNTY and COUNTY shall pay each progress payment within ninety (90) days after COUNTY's verification of each progress payment due.

IN WITNESS WHEREOF, LANDLORD and COUNTY have caused this Improvement Work Letter to be duly executed by their authorized representatives as of the date of the Lease.

COUNTY:
COUNTY OF SAN BERNARDINO

**LANDLORD: POTOMAC PLAZA, LLC, a
California limited liability company**

By: 
Curt Hagman, Chairman
Board of Supervisors

By: 
Joon Shik Choi

Date: OCT 27 2020

Title: Manager
Date: 10-18-2020

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

LYNNA MONELL, Clerk of the Board of
Supervisors

By: 
Deputy

Date: OCT 27 2020



Approved as to Legal Form:

MICHELLE D. BLAKEMORE, County Counsel
San Bernardino County, California

By: 
Agnes Cheng, Deputy County Counsel

Date: _____

IN WITNESS WHEREOF, LANDLORD and COUNTY have caused this Improvement Work Letter to be duly executed by their authorized representatives as of the date of the Lease.

COUNTY:
COUNTY OF SAN BERNARDINO

**LANDLORD: POTOMAC PLAZA, LLC, a
California limited liability company**

By: _____
Curt Hagman, Chairman
Board of Supervisors

By: _____
Joon Shik Choi

Title: Manager

Date: _____

Date: _____

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

LYNNA MONELL, Clerk of the Board of
Supervisors

By: _____
Deputy

Date: _____

Approved as to Legal Form:

MICHELLE D. BLAKEMORE, County Counsel
San Bernardino County, California

By: _____
Agnes Cheng, Deputy County Counsel

Date: 10/15/2020