



Contract Number

SAP Number

## San Bernardino County Fire Protection District

<b>Department Contract Representative</b>	Terry W. Thompson, Director
<b>Telephone Number</b>	(909) 387-5000
<b>Contractor</b>	California Department of Forestry and Fire Protection
<b>Contractor Representative</b>	Shane Littlefield
<b>Telephone Number</b>	951-314-0402
<b>Contract Term</b>	Two Years
<b>Original Contract Amount</b>	\$2.00
<b>Amendment Amount</b>	-
<b>Total Contract Amount</b>	\$2.00
<b>Cost Center</b>	5900162442
<b>GRC/PROJ/JOB No.</b>	7900 4413
<b>Internal Order No.</b>	

**Briefly describe the general nature of the contract:** The revenue lease agreement is for a total of an approximately 3,200 square foot fire house building for a term of two years commencing on December 5, 2023, and set to expire on December 4, 2025, with one (1) one-year option to extend the term of the lease at 11855 E Street Victorville, California 92392 (APN# 307102113).

**FOR DISTRICT USE ONLY**

Approved as to Legal Form

► SEE SIGNATURE PAGE.

John Tubbs II, Deputy County Counsel

Date \_\_\_\_\_

Reviewed for Contract Compliance

► \_\_\_\_\_

Date \_\_\_\_\_

Reviewed/Approved by Department

► \_\_\_\_\_

Lyle Ballard, Real Property Manager, RESD

Date \_\_\_\_\_

**SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT**

## **LEASE AGREEMENT**

**LESSEE:** CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION

**DISTRICT:** SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT

**PREMISES:** FIRE STATION 16; 11855 E STREET VICTORVILLE, CALIFORNIA

**TERM OF LEASE:** TWO (2) YEARS

**OPTIONS:** ONE (1) ONE-YEAR OPTION

**COMMENCEMENT DATE OF LEASE:** December 5, 2023

**REVENUE PER YEAR:** \$1.00

**DISTRICT CONTRACT NUMBER:**

**DOCUMENT REVISION DATE:** 3/1/2011

**DATE TYPED:** August 19, 2023

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## LEASE AGREEMENT

1. **PARTIES:** This lease is made between San Bernardino County Fire Protection District ("DISTRICT") as lessor, and California Department of Forestry and Fire Protection (CAL FIRE) (jointly and severally "LESSEE") as lessee, who agree as follows
2. **PREMISES LEASED:** DISTRICT leases to LESSEE and LESSEE leases from DISTRICT Fire Station No. 16 consisting of approximately 3,200 square feet building (APN# 307102113), real property and other improvements, with parking, at 11855 E Street Victorville, California 92392 ("Premises"), as more particularly described in Exhibit "A", Premises Description.
3. **TERM:** This lease shall commence on December 5, 2023, and continue thereafter until December 4, 2025 ("Term"). In the event the Term commences prior to the date specified for the commencement of the Term as a result of DISTRICT making the Premises available and LESSEE's acceptance of an "As Is" condition, the early possession of the Premises shall be granted, and the ending date of the Term shall remain the same.
4. **OPTION TO EXTEND:** DISTRICT gives LESSEE the option to extend the term of the lease on the same provisions and conditions, for one (1) one-year period ("extended term") following expiration of the initial term, provided that at the time of exercise of the applicable option, LESSEE is not in default with respect to any of the terms, covenants or conditions to be observed or performed by LESSEE hereunder, by LESSEE giving written notice of exercise of the option to DISTRICT at least six (6) months, but not more than twelve (12) months, prior to the expiration of the preceding term.
5. **RENT:** LESSEE shall pay to DISTRICT the annual rental of one dollar and 00/100 Dollars (\$1.00). The first rental payment shall be paid within sixty (60) days of the lease being executed by both parties; the second rental payment shall be paid within ten (10) to twelve (12) months of the first rental payment. All rent shall be paid to DISTRICT at the address to which notices to DISTRICT are given.
6. **RETURN OF PREMISES:** LESSEE agrees upon any termination of this lease, LESSEE will return the Premises in as good condition and repair as the Premises now are or shall hereafter be put; reasonable wear and tear excepted.
7. **USE:** This lease is limited to the purpose of LESSEE 24-hour fire life safety storage and response services. LESSEE shall not use the Premises for any other purpose.
8. **HEALTH, SAFETY AND FIRE CODE REQUIREMENTS:** As a condition precedent to the existence of this lease, LESSEE at its sole expense will ensure the Premises meet the applicable requirements of the Health, Safety, Fire and Building Codes, including any requirements for a notice of completion, certificate of occupancy and the Americans with Disabilities Act ("ADA"). Should the continued occupancy of the leased Premises be in any way prejudiced or prevented due to changes in the ADA or the Health, Safety or Fire Codes, LESSEE herein shall correct, update and comply with said changes at LESSEE's cost.
9. **SIGNS:** LESSEE will display from the windows and/or fence of the Premises only such sign or signs as are not prohibited by law, and which are approved by DISTRICT.
10. **MAINTENANCE:**
  - A. LESSEE at its cost shall maintain in good condition all portions of the Premises, including but not limited to the following:
    - (1) The structural parts of the building and other improvements that are a part of the Premises, which structural parts include the foundations, bearing and exterior walls (including glass and doors), subflooring, and roof;

(2) The electrical, plumbing, and sewage systems, including, without limitation, those portions of the systems lying outside the Premises;

(3) Window frames, gutters, and downspouts on the building and other improvements that are a part of the Premises;

(4) Air conditioner, heating and ventilating systems servicing the Premises (additionally, air conditioning and heating filters are to be changed quarterly);

(5) The grounds, including all parking areas and outside lighting, grass, trees, shrubbery and other flora, and;

(6) Interior maintenance and janitorial services.

B. DISTRICT at its cost shall repair the Premises if they are damaged by (1) causes over which LESSEE has no control; (2) acts or omissions of DISTRICT or its authorized representatives.

C. LESSEE shall have ten (10) days after notice from DISTRICT to perform its obligation under this paragraph, except that LESSEE shall perform its obligations immediately if the nature of the problem presents a material hazard or emergency. Provided, however, if the nature and/or extent of LESSEE's obligation is such that more than ten (10) days are reasonably required to complete, then LESSEE shall not be in default if LESSEE commences its obligation within said ten (10) day period and thereafter diligently prosecutes its obligation to completion. If LESSEE does not perform its obligations within the time limitations in this paragraph, DISTRICT after notice to LESSEE can perform the obligations and have the right to be reimbursed for the sum it actually and reasonably expends (including charges for DISTRICT employees and equipment) in the performance of LESSEE's obligations. Any notice or demand concerning a material hazard or emergency may be made orally, by telephone or otherwise, provided that written confirmation is given within five (5) days after the oral notice or demand is made. Such confirmation shall be made as provided in **Paragraph 18, NOTICES**.

11. **ALTERATIONS:** LESSEE shall not make any structural, interior, exterior improvements or alterations to the Premises without DISTRICT's written consent. Any such alterations made shall remain on and be surrendered with the Premises on expiration or termination of the lease.

12. **FIXTURES:** LESSEE shall have the right during the Term(s) of this lease to install shelving and fixtures, and make interior, non-structural improvements or alterations in the Premises. Such shelving, fixtures, improvements, and alterations shall remain the property of the LESSEE and may be removed by the LESSEE during the Term(s) of this lease or within a reasonable time thereafter, provided that the LESSEE restores the Premises to the condition as it existed at the commencement of this lease, reasonable wear and tear excluded, or the LESSEE in its sole discretion may elect to surrender all or any part of such shelving, fixture, improvements and alterations to the DISTRICT, in which case LESSEE shall have no duty to restore the Premises. Any such election to surrender must be in writing and accepted by DISTRICT to be effective.

13. **UTILITIES:** LESSEE shall furnish to the Premises and pay all service charges and related taxes for water, trash, sewer and all other utilities. LESSEE shall furnish and pay for its own telephone service.

14. **INDEMNIFICATION:** LESSEE agrees to indemnify, defend (with counsel reasonably approved by DISTRICT) and hold harmless the DISTRICT and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the DISTRICT 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 indemnities. LESSEE's indemnification obligation applies to the DISTRICT's "active" as well as "passive" negligence but does not apply to the DISTRICT's "sole negligence" or "willful misconduct" within the meaning of Civic Code Section 2782.

15. **INSURANCE REQUIREMENTS AND SPECIFICATIONS:**

A. DISTRICT is a public entity and is self-insured.

B. LESSEE agrees to provide insurance set forth in accordance with the requirements herein. If LESSEE uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the LESSEE agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the lease hereunder.

LESSEE is an authorized self-insured public entity for purposes of Professional Liability, Automobile Liability, General Liability and Worker's Compensation, and warrants that through its program of self-insurance it has adequate coverage or resources to protect against any claim, demand, liability, damage, cost and expense, including reasonable attorney's fees and costs (including any claims based on LESSEE's indemnity obligation to DISTRICT) arising out of DISTRICT's and LESSEE's performance of the terms, conditions or obligations of this Agreement. Without in anyway affecting the indemnity herein provided and in addition thereto, the LESSEE may use its program of self-insurance for, or shall secure and maintain throughout the contract 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 the LESSEE and all risks to such persons under this lease agreement.

If LESSEE has no employees, it may certify or warrant to the DISTRICT 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 the DISTRICT's Director of Risk Management.

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

(2) Commercial/General Liability Insurance – The LESSEE shall carry General Liability Insurance covering all operations performed by or on behalf of the LESSEE 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) Personal injury
- (e) Contractual liability.
- (f) \$2,000,000 general aggregate limit.

(3) Commercial Property Insurance providing all risk coverage for the leased 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.

(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 LESSEE performs any construction of the Premises on behalf of the DISTRICT, LESSEE 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 (\$3,000,000) 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) Subcontractor Insurance Requirements. The LESSEE agrees to require all parties or subcontractors, including architects or others it hires or contracts with related to the performance of this contract to provide insurance covering the contracted operation with the basic requirements for all contracts in B1 and the insurance sections for all contracts in B2, (including waiver of subrogation rights) and naming the DISTRICT as an additional insured. The LESSEE 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 policy, shall contain endorsements naming the DISTRICT and their officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the use under this lease hereunder. The additional insured endorsements shall not limit the scope of coverage for the DISTRICT to vicarious liability but shall allow coverage for the DISTRICT 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 – The LESSEE shall require the carriers of required coverages to waive all rights of subrogation against the DISTRICT, their officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the LESSEE and LESSEE's employees or agents from waiving the right of subrogation prior to a loss or claim. The LESSEE hereby waives all rights of subrogation against the DISTRICT.

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 the DISTRICT.

G. Severability of Interests – The LESSEE 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 the LESSEE and the DISTRICT or between the DISTRICT and any other insured or additional insured under the policy.

H. Proof of Coverage – The LESSEE shall furnish Certificates of Insurance to the San Bernardino Real Estate Services Department (RES D) administering the lease evidencing the insurance coverage, including endorsements, as required, 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 RES D, and LESSEE shall maintain such insurance from the time LESSEE commences use under the lease hereunder until the end of the period of the lease. Within fifteen (15) days of the commencement of this contract, the LESSEE 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 the DISTRICT Department 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. Insurance Review – Insurance requirements are subject to periodic review by the DISTRICT. The DISTRICT’s Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever the DISTRICT’s Department 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 the DISTRICT. In addition, the DISTRICT’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 the DISTRICT, inflation, or any other item reasonably related to the DISTRICT’s risk.

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

Any failure, actual or alleged, on the part of RESD or DISTRICT 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 RESD or the DISTRICT.

K. Failure to Procure Insurance. All insurance required must be maintained in force at all times by LESSEE. Failure to maintain said insurance, due to expiration, cancellation, etc., shall be cause for the DISTRICT to give notice to immediately suspend all LESSEE’s business activities on the Premises. Failure to reinstate said insurance within the (10) days of notice to do so shall be cause for termination and for forfeiture of this agreement, and/or DISTRICT, at its discretion, may procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by DISTRICT shall be repaid by LESSEE to DISTRICT upon demand but only for the pro rata period of non-compliance.

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

M. LESSEE agrees to require all parties or subcontractors, or others it hires or contracts with related to the use of this lease to provide insurance covering such use with the basic requirements and naming the DISTRICT as additional insured. LICENSEE agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided as required herein.

## 16. **DESTRUCTION OF PREMISES:**

A. If during the Term of this lease, any casualty renders twenty-five percent (25%) or less of the floor space of the leased Premises unusable for the purpose intended, DISTRICT shall commence restoration of the Premises within sixty (60) days of notice of the casualty and shall thereafter complete restoration of the Premises within a reasonable time. If DISTRICT does not commence the restoration obligations of this subparagraph within the time limitation set forth, LESSEE may thereafter terminate this lease by written notice to DISTRICT at any time prior to DISTRICT commencing restoration.

B. If during the Term of this lease, any casualty renders more than twenty-five percent (25%) but less than fifty percent (50%) of the floor space of the leased Premises unusable for the purpose intended, DISTRICT, in its sole discretion, may either commence restoration of the Premises within ninety (90) days of notice of the casualty and shall thereafter complete restoration of the Premises within a reasonable time, or DISTRICT may terminate this lease by written notice to LESSEE. If DISTRICT does not commence the restoration obligations of this subparagraph within the time limitation set forth, LESSEE may thereafter terminate this lease by written notice to DISTRICT at any time prior to DISTRICT commencing restoration.

C. If during the Term of the lease, any casualty renders fifty percent (50%) or more of the floor space of the leased Premises unusable for the purpose intended, this lease shall be terminated as of the date of the casualty.



If the lease is terminated pursuant to this subparagraph, LESSEE shall have a reasonable time to vacate the Premises and shall not be required to pay rent during the reasonable time required to vacate the Premises.

D. In the event there is a destruction of a portion of the leased Premises as set out in paragraphs "a" or "b" above, there shall be an abatement or reduction of the rent between the date of destruction and the date of completion of restoration or the date of termination of this lease, whichever comes first. The abatement or reduction of the rent shall be in the percentage as the percentage of unusable floor space. Unusable floor space for the purpose of calculating the percentage of rent abatement or reduction shall include not only that floor space which is rendered unusable for the purpose intended by the casualty itself, but any additional floor space which is not usable for the purpose intended because of restoration or similar activities.

E. In the event there is a destruction of a portion of the leased Premises as set out in paragraphs "a" or "b" above, and the lease is not terminated because of such destruction, LESSEE agrees to pay to DISTRICT any and all insurance proceeds received for said destruction for DISTRICT use in the restoration of the Premises.

F. In the event DISTRICT is required to restore the Premises as provided in this paragraph, DISTRICT shall restore, at its expense, any structural or exterior improvements or alterations to the Premises made by LESSEE pursuant to Paragraph 11, **ALTERATIONS**, of this lease, but shall not have to restore any shelving, fixtures, or interior nonstructural improvements or alteration made by the LESSEE pursuant to Paragraph 12, **FIXTURES**, of this lease.

G. It is the purpose and intent of this paragraph to determine who shall bear the initial responsibility for restoration of the Premises in the event of any such destruction and not to determine the party responsible for the ultimate costs of such restoration.

17. **DISTRICT'S ACCESS TO PREMISES:** DISTRICT and its authorized representatives shall have the right to enter the Premises at all reasonable times for any of the following purposes:

- A. To determine whether the Premises are in good condition;
- B. To do any necessary maintenance and to make any restoration to the Premises that DISTRICT has the right or obligation to perform.
- C. To serve, post, or keep posted any notices required by law;
- D. To post "for sale" signs at any time during the Term, to post "for rent" or "for lease" signs during the last three (3) months of the Term, and;
- E. To show the Premises to prospective brokers, agents, buyers, LESSEEs, lenders or persons interested in an exchange, at any time during the Term.

DISTRICT shall conduct its activities on the Premises as allowed in this paragraph in a manner that will cause the least possible inconvenience, annoyance, or disturbance to LESSEE.

18. **NOTICES:** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person, including notices under the California unlawful detainer statutes, shall be in writing and either served personally or sent by prepaid, first-class mail. 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 address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated two (2) DISTRICT working days from the time of mailing if mailed as provided in this paragraph.

LESSEE's address:	California Department of Forestry and Fire Protection Unit Chief 3800 N. Sierra Way San Bernardino, CA 92405
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DISTRICT's address: San Bernardino County Fire Protection District  
Real Estate Services Department  
385 North Arrowhead Avenue, Third Floor  
San Bernardino, CA 92415

19. **INCORPORATION OF PRIOR AGREEMENT:** This lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this lease, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.
20. **WAIVERS:** No waiver by either party of any provisions of this lease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by either party of the same or any other provisions.
21. **AMENDMENTS:** No provision of this lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successor in interest, expressing by its terms an intention to modify this lease.
22. **SUCCESSORS:** This lease shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.
23. **SEVERABILITY:** If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this 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 this lease or any other portion thereof.
24. **TIME OF ESSENCE:** Time is of the essence of each provision of this 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.
25. **QUIET ENJOYMENT:** Subject to the provisions of this lease and conditioned upon performance of all the provisions to be performed by LESSEE hereunder, DISTRICT shall secure to LESSEE during the lease Term the quiet and peaceful possession of the Premises and all right and privilege appertaining thereto.
26. **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.
27. **CONSENT:** Whenever consent or approval of either party is required that party shall not unreasonably withhold or delay such consent or approval.
28. **EXHIBITS:** All exhibits referred to are attached to this lease and incorporated by reference.
29. **LAW:** This lease shall be construed and interpreted in accordance with the laws of the State of California.
30. **RESERVED:**
31. **ATTORNEYS' FEES AND COSTS:** If any legal action is instituted to enforce or declare any party's rights hereunder, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under **Paragraph 14, INDEMNIFICATION.**
32. **VENUE:** The parties acknowledge and agree that this lease was entered into and intended to be performed in the Superior Court of the State of California, County of San Bernardino, San Bernardino District. The parties agree that the venue for any action or claim brought by any party to this lease will be San Bernardino County Fire Protection District. Each party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court which would allow them to request or demand a change of venue. If any action or claim concerning this lease is brought by any third party, the parties hereto agree to use their best efforts to obtain

a change of venue to the Superior Court of the State of California, County of San Bernardino, San Bernardino District.

33. **CAPTIONS, TABLE OF CONTENTS AND COVER PAGE:** The paragraph captions, table of contents and the cover page of this lease shall have no effect on its interpretations.

34. **SURVIVAL:** The obligations of the parties which, by their nature, continue beyond the Term of this lease, will survive the termination of this lease.

35. **BROKER'S COMMISSIONS:** LESSEE is solely responsible for the payment of any commissions to any broker who has negotiated or otherwise provided services in connection with this lease.

36. **ESTOPPEL CERTIFICATES:** Each party within thirty (30) days after notice from the other party, shall execute and deliver to other party, in recordable form, a certificate stating that this lease is unmodified and in full force and effect, or in full force and effect as modified, and stating the modifications. The certificate also shall state the amount of minimum monthly rent, the dates to which the rent has been paid in advance, the amount of any security deposit or prepaid rent, and that there are no uncured defaults or specifying in reasonable detail the nature of any uncured default claimed. Failure to deliver the certificate within thirty (30) days shall be conclusive upon the party requesting the certificate and any successor to the party requesting the certificate, that this lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate, and that there are no uncured defaults on the part of the party requesting the certificate. The estoppel certificate shall be in the form provided by San Bernardino County Fire Protection District.

37. **RESERVED**

38. **ASSIGNMENT AND SUBLETTING:**

A. LESSEE shall not voluntarily assign or encumber its interest in this lease or in the Premises or any options contained in this lease or sublease, all or any part of the Premises, or allow any other person or entity (except LESSEE's authorized representatives) to occupy or use all or any part of the Premises, without first obtaining DISTRICT's consent. Any assignment, encumbrance, or sublease without DISTRICT's consent shall be voidable and, at DISTRICT's election, shall constitute a default. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this paragraph.

(1) If LESSEE is a partnership, a withdrawal or change, voluntary, involuntary, or by operation of law, of any partner, or the dissolution of the partnership, shall be deemed a voluntary assignment.

(2) If LESSEE consists of more than one person, a purported assignment, voluntary, involuntary, or by operation of law, from one person to any other shall be deemed a voluntary assignment.

(3) If LESSEE is a corporation, any dissolution, merger, consolidation, or other reorganization of LESSEE, or the sale or other transfer of a controlling percentage of the capital stock of LESSEE, or the sale of more than fifty percent (50%) of the value of the assets of LESSEE, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing more than fifty percent (50%) of the total combined voting power of all classes of LESSEE's capital stock issued, outstanding, and entitled to vote for the election of directors. This paragraph shall not apply to corporations the stock of which is traded through an exchange or over the counter.

B. LESSEE immediately and irrevocably assigns to DISTRICT, as security for LESSEE's obligations under this lease, all rent from any subletting of all or a part of the Premises as permitted by this lease, and DISTRICT, as assignee and as attorney-in-fact for LESSEE, or a receiver for LESSEE appointed on DISTRICT's application, may collect such rent and apply it toward LESSEE's obligations under this lease; except that, until the occurrence of an act of default by LESSEE, LESSEE shall have the right to collect such rent.

C. Fifty percent (50%) of all rent received by LESSEE from its subLESSEES in excess of the rent payable by LESSEE to DISTRICT under this lease shall be paid to DISTRICT, or fifty percent (50%) of any sums to

be paid by an assignee to LESSEE in consideration of the assignment of this lease or any option herein shall be paid to DISTRICT.

D. If LESSEE requests DISTRICT to consent to a proposed assignment or subletting, LESSEE shall pay to DISTRICT, whether or not consent is ultimately given, DISTRICT's reasonable costs incurred in connection with such request, including, but not limited to, reasonable attorney's fees.

E. No interest of LESSEE in this lease shall be assignable by operation of law (including, without limitation, the transfer of this lease by testacy or intestacy). Each of the following acts shall be considered an involuntary assignment:

(1) If LESSEE is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which LESSEE is the bankrupt; or, if LESSEE is a partnership or consists of more than one person or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors;

(2) If a writ of attachment or execution is levied on this lease;

(3) If, in any proceeding or action to which LESSEE is a party, a receiver is appointed with authority to take possession of the Premises.

F. An involuntary assignment shall constitute a default by LESSEE and DISTRICT shall have the right to elect to terminate this lease, in which case this lease shall not be treated as an asset of LESSEE, unless the involuntary assignment is cured as follows:

(1) If a writ of attachment or execution is levied on this lease, LESSEE shall have ten (10) days in which to cause the attachment or execution to be removed.

(2) If any involuntary proceeding in bankruptcy is brought against LESSEE, or if a receiver is appointed, LESSEE shall have sixty (60) days in which to have the involuntary proceeding dismissed or the receiver removed.

(3) Except as provided in (1) and (2) above, LESSEE shall have no right to cure any involuntary assignment.

39. **TERMINATION:** DISTRICT may terminate this lease by giving LESSEE sixty (60) days prior notice of the termination.

40. **FORMER DISTRICT OFFICIALS:** LESSEE agrees to provide or has already provided information on former DISTRICT administrative officials (as defined below) who are employed by or represent LESSEE. The information provided includes a list of former DISTRICT administrative officials who terminated DISTRICT employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of LESSEE. For purposes of this provision, "DISTRICT administrative official" is defined as a member of the Board of Directors or such officer's staff, DISTRICT Administrative Officer or member of such officer's staff, DISTRICT department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Exhibit "B", List of Former DISTRICT Officials.)

41. **MISREPRESENTATIONS:** If during the course of the administration of this lease, the DISTRICT determines that the LESSEE has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the DISTRICT, this lease may be immediately terminated. If this lease is terminated according to this provision, the DISTRICT is entitled to pursue any available legal remedies.

42. **DISCLOSURE:** All information received by the DISTRICT from any source concerning this lease, including the lease itself, may be treated by the DISTRICT as public information subject to disclosure under the provisions of the California Public Records Act, Government Code section 6250 et seq. (the "Public Records Act"). LESSEE

understands that although all materials received by the DISTRICT in connection with this contract are intended for the exclusive use of the DISTRICT, they are potentially subject to disclosure under the provisions of the Public Records Act. In the event a request for disclosure of any part or all of any information which a LESSEE has reasonably requested DISTRICT to hold in confidence is made to the DISTRICT, the DISTRICT shall notify the LESSEE of the request and shall thereafter disclose the requested information unless the LESSEE, within five (5) days of receiving notice of the disclosure request, requests nondisclosure, provides DISTRICT a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold the DISTRICT harmless in any/all actions brought to require disclosure. LESSEE waives any and all claims for damages, lost profits, or other injuries of any and all kinds in the event DISTRICT fails to notify LESSEE of any such disclosure request and/or releases any information concerning the contract received from the LESSEE or any other source.

**43. DEFAULT AND RIGHT TO TERMINATE:**

A. Definitions. A "Default" by LESSEE shall refer to any failure by LESSEE to observe, comply with or perform any of the terms, covenants, conditions or rules applicable to LESSEE under this lease. The term "Breach" shall refer to the occurrence of any one or more of the following Defaults, and, where a grace period for cure after notice is specified herein, the failure of LESSEE to cure such Default prior to the expiration of the applicable grace period:

(1) LESSEE's unexcused failure to conduct LESSEE's business at the Premises in accordance with the terms of this lease including but not limited to the failure to comply with the limitations of use of the Premises.

(2) Vacating the Premises without the evident intention to reoccupy same, an abandonment of the Premises, or notice of intent to abandon Premises expressed in written notice.

(3) LESSEE's failure to make any payment of monthly rent, or any other monetary payment required to be made by LESSEE hereunder as and when due, the failure of LESSEE to provide DISTRICT with reasonable evidence of insurance or surety bond required under this lease, or LESSEE's failure to fulfill any obligation under this lease which endangers or threatens life or property, where such failure continues for a period of three (3) days, or such reasonable time as agreed by DISTRICT, following written notice thereof by or on behalf of DISTRICT to LESSEE.

(4) The failure by LESSEE to provide DISTRICT with reasonable written evidence (in duly executed original form, if applicable) of any documentation or information which DISTRICT may reasonably require of LESSEE under the terms of this lease, where any such failure continues for a period of ten (10) days following written notice by or on behalf of DISTRICT to LESSEE.

(5) A Default by LESSEE as to any of the other terms, covenants, conditions or provisions of this lease that are to be observed, complied with or performed by LESSEE where such Default continues for a period of thirty (30) days after written notice thereof by or on behalf of DISTRICT to LESSEE; provided, however, that if the nature of LESSEE's Default is such that more than thirty (30) days are reasonably required for its cure, then it shall not be deemed to be a Breach of this lease by LESSEE if LESSEE commences such cure within said thirty (30) day period and thereafter continuously and diligently prosecutes such cure to completion.

(6) A Default by LESSEE as to the terms of any Approved Encumbrance, where such Default continues for a period of thirty (30) days after written notice thereof by or on behalf of DISTRICT;

(7) The occurrence of any of the following events: (a) the making by LESSEE of an assignment for the benefit of creditors; (b) LESSEE's becoming a "debtor" as defined in 11 U.S. Code Section 101 or any successor statute thereto (unless, in the case of a petition filed against LESSEE, the same is dismissed within sixty (60) days); (c) the appointment of a trustee or receiver to take possession of substantially all of LESSEE's assets located at the Premises or of LESSEE's interest in this lease, where possession is not restored to LESSEE within thirty (30) days; or (d) the attachment, execution or other judicial seizure of substantially all of LESSEE'S assets located at the Premises or of LESSEE's interest in this lease, where such seizure is not discharged within thirty (30) days.

(8) The discovery by DISTRICT that any financial statement of LESSEE or of any guarantor, given to DISTRICT by LESSEE or any guarantor, was materially false.

(9) If the performance of LESSEE's obligations under this lease is guaranteed: (a) the death of a Guarantor, (b) the termination of a Guarantor's liability with respect to this lease other than in accordance with the terms of such guaranty, (c) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, or (d) a Guarantor's refusal to honor the guaranty, and LESSEE'S failure, within sixty (60) days following written notice by or on behalf of DISTRICT to LESSEE of any such event, to provide DISTRICT with written alternative assurances of security, which, when coupled with the then existing resources of LESSEE, equals or exceeds the combined financial resources of LESSEE and the Guarantors that existed at the time of execution of this lease.

## **B. Remedies.**

(1) Other than when a different time or remedy is specifically provided, such as for the payment of rent, if LESSEE fails to perform any affirmative duty or obligation of LESSEE under this lease within ten (10) days after written notice to LESSEE (or in case of an emergency, without notice), DISTRICT may at its option (but without obligation to do so), perform such duty or obligation on LESSEE's behalf, including, but not limited to, the obtaining of reasonably required, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by DISTRICT shall be due and payable by LESSEE to DISTRICT within ten (10) days of DISTRICT's demand.

(2) In the event of a Breach of this lease by LESSEE (as defined above), with or without further notice or demand, and without limiting DISTRICT in the exercise of any right or remedy which DISTRICT may have by reason of such Breach, DISTRICT may:

(a) Terminate LESSEE's right to possession of the Premises by any lawful means, in which case this lease and the term hereof shall terminate, and LESSEE shall immediately surrender possession of the Premises to DISTRICT. In such event DISTRICT shall be entitled to recover from LESSEE: (i) the worth at the time of the award of the unpaid rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the LESSEE proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that the LESSEE proves could be reasonably avoided; and (iv) any other amount necessary to compensate DISTRICT for all the detriment proximately caused by the LESSEE's failure to perform its obligations under this lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, and that portion of any leasing commission paid by DISTRICT in connection with this lease and applicable to the unexpired term of this lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco or the Federal Reserve Bank District in which the Premises are located at the time of award plus one percent (1%). DISTRICT's attempt to mitigate damages caused by LESSEE's Default or Breach of this lease shall not waive DISTRICT's right to recover damages under this Paragraph. If termination of this lease is obtained through the provisional remedy of unlawful detainer, DISTRICT shall have the right to recover in such proceeding the unpaid rent and damages as are recoverable therein, or DISTRICT may reserve the right to recover all or any part thereof in a separate suit for such rent and/or damages.

(b) Continue the lease and LESSEE's right to possession in effect under California Civil Code Section 1951.4 after LESSEE's Breach and recover the rent as it becomes due, provided LESSEE has the right to sublet or assign, subject only to reasonable limitations. DISTRICT and LESSEE agree that the limitations on assignment and subletting in this lease are reasonable. DISTRICT's maintenance of the Premises or efforts to relet the Premises, or the appointment of a receiver to protect the DISTRICT's interest under this lease, shall not constitute a termination of the LESSEE'S right to possession.

(c) Pursue any other remedy now or hereafter available to DISTRICT under the laws or judicial decisions of the State of California.

(3) If, at any time LESSEE is in default in monthly rent or fees or any other provision for forty-five (45) days, or if LESSEE defaults on any provision(s) three (3) times within any twelve (12) consecutive months, DISTRICT may terminate this lease on ten (10) days' notice.

C. **Survival of Indemnity Provisions.** The expiration or termination of this lease and/or the termination of LESSEE's right to possession shall not relieve LESSEE from liability under any indemnity provisions of this lease as to matters occurring or accruing during the Term or by reason of LESSEE's occupancy of the Premises.

D. **LESSEE's Personal Property.** Immediately upon termination of this lease, LESSEE covenants and agrees to remove all of LESSEE's personal property, machinery or fixtures from the Premises. If LESSEE fails to remove any such personal property, DISTRICT may remove such personal property and place the same in storage at the expense of LESSEE and without liability to DISTRICT for losses. LESSEE agrees to pay DISTRICT for all expenses incurred by DISTRICT in connection with the removal, and storage charges of LESSEE's personal property, including attorney's fees and court costs. Alternatively, DISTRICT may at its option and on not less than ten (10) days written notice to LESSEE sell all or any part of said personal property at public or private sale for such prices as DISTRICT may obtain. DISTRICT shall apply the proceeds of any such sale to the amounts due from LESSEE under this lease and to any expense incidental to such sale. Any surplus arising from such sale shall be refunded to LESSEE.

E. **No Waiver by DISTRICT.** DISTRICT's receipt of any rent or of any other sum of money paid by LESSEE after the termination and forfeiture of this lease, or after the giving by DISTRICT of any notice to effect such termination, shall not waive the Default, reinstate, continue or extend the Term of this lease, or destroy or impair the efficacy of DISTRICT's notice of termination, unless otherwise agreed in writing by DISTRICT. DISTRICT's acceptance of the keys to the Premises or any other act of the DISTRICT or its agents or employees during the Term of this lease shall not be deemed to be an acceptance or a surrender of the Premises, unless otherwise agreed in writing by DISTRICT.

44. **HOLDING OVER:** If the LESSEE continues in possession of the Premises after the expiration of the Term or after any termination of this lease prior to the expiration of the Term, and if said occupancy is with the consent of the DISTRICT, then LESSEE shall be deemed to be holding the Premises on a month-to-month tenancy subject to all the provisions of this lease.

45. **INTERPRETATIONS:** As this agreement was jointly prepared by both parties, the language in all parts of this agreement shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

46. **ENTIRE AGREEMENT:** This agreement, including recitals, constitutes a single, integrated contract, expressing the entire agreement and understanding of the parties concerning the subject matter of this agreement, and this agreement supersedes and replaces all prior understandings, negotiations, proposed agreements and agreements, whether oral or written, express or implied.

47. **COUNTERPARTS:** This agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same agreement. The parties shall be entitled to sign and transmit an electronic signature of this agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed agreement upon request.

48. **AUTHORIZED SIGNATORS:** The parties to this lease represent that the signators executing this lease are fully authorized to enter into this agreement.

**END OF LEASE TERMS.**

**SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT**

By: \_\_\_\_\_  
Dawn Rowe, Chair  
Board of Directors

Date: \_\_\_\_\_

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

LYNNA MONELL, Secretary of the Board of  
Directors

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

Approved as to Legal Form:

TOM BUNTON, County Counsel  
San Bernardino County, California

By: \_\_\_\_\_  
John Tubbs II, Deputy County Counsel

Date: \_\_\_\_\_

**CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT "A"**

**Premises Description  
(Red Border Yellow Highlight)**



**EXHIBIT "B"**

**LIST OF FORMER DISTRICT OFFICIALS**

INSTRUCTIONS: List the full name of the former DISTRICT Administrative Official, the title/description of the Official's last position with the DISTRICT, the date the Official terminated DISTRICT employment, the Official's current employment and/or representative capacity with the LESSEE, the date the Official entered LESSEE's employment and/or representation.

OFFICIAL'S NAME:

REQUIRED INFORMATION