

(Lease Area No. SON-101-01 & 02)
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
AIRSPACE LEASE

THIS LEASE, dated April 13, 2010 is by and between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "Landlord," and the City of Santa Rosa, hereinafter called "Tenant."

WITNESSETH

WHEREAS, on August 1, 1979, the State of California leased the Premises to Railroad Plaza, Ltd., for a term of 50 years, expiring July 31, 2029;

WHEREAS, the Premises at the time of the 1979 Lease was to be developed by Railroad Plaza, Ltd. into 2 large commercial buildings and 148 parking spaces;

WHEREAS, on February 11, 1981, with Landlord's consent, Railroad Plaza, Ltd. entered into a Sublease Agreement with the City of Santa Rosa with a term expiring July 31, 2029, wherein the City of Santa Rosa would maintain all 148 parking spaces available on the Premises as public parking for the Railroad Square Municipal Assessment District;

WHEREAS, Railroad Plaza, Ltd. did construct 2 large commercial buildings (referenced on the attached site plan as "Bldg. A" and "Bldg. B" and subdivided internally into multiple retail establishments, attached as "Exhibit B") and 148 parking spaces on the Premises (also shown on Exhibit B) and the City of Santa Rosa did maintain and operate the parking spaces as a public parking lot;

WHEREAS, Landlord thereafter acquired the leasehold from Railroad Plaza, Ltd., and thereby, also acquiring the City of Santa Rosa parking Sublease;

WHEREAS, the rent for use of the 148 parking spaces was paid by the City of Santa Rosa in a single lump sum to cover the entire term of their occupancy through July 31, 2029;

WHEREAS, Landlord constructed transportation improvements within the Premises and as part of these improvements Landlord demolished the 2 buildings constructed by Railroad Plaza, Ltd.;

WHEREAS, the City of Santa Rosa desires to continue leasing the original area of the Premises containing the original 148 parking spaces, and the City of Santa Rosa now proposes to also convert the areas of the Premises wherein the now demolished buildings once stood into more public parking;

WHEREAS, the City of Santa Rosa plans to reconfigure the access and vehicle flow within the now larger freeway lease area such that the new parking lot will contain 168 striped parking spaces.

NOW, THEREFORE,

1. Landlord and the City of Santa Rosa agree to terminate the terms of their prior Landlord-Tenant relationship as created via operation of law once Landlord acquired the leasehold from Railroad Plaza, Ltd., and thereby, also acquiring the City of Santa Rosa parking Sublease.

2. Landlord and the City of Santa Rosa agree to enter into this new Lease Agreement wherein the City of Santa Rosa will lease the Premises, now absent the original buildings, and use the entire Premises for public parking.

3. Landlord and the City of Santa Rosa agree that the term of this Lease Agreement shall reflect the same length term as was provided for in the 1981 Sublease Agreement, expiring July 31, 2029, provided that the term will be extended for that period of time during which the City of Santa Rosa was unable to use any spaces due to construction and staging by Landlord (approximately 4 years).

4. Landlord and the City of Santa Rosa agree that Tenant has already paid rent in a single lump sum for use of the area within the Premises containing the original 148 parking spaces for the entire term of this Lease expiring July 31, 2029, extended as described above.

5. Landlord and the City of Santa Rosa agree that the net additional parking areas within the Premises created by the demolition of the 2 buildings shall be priced at fair market value and the rent term administered per Article 4 herein.

6. Landlord and the City of Santa Rosa agree that upon full execution of the lease, City shall have right to possess premises as described in Article 2 for construction purposes consistent with provisions of the lease, provided necessary permits have been obtained from Caltrans Permits office.

7. Landlord and the City of Santa Rosa agree that the newly configured parking areas within the Premises, as designed by the City of Santa Rosa, will contain 168 legal striped parking spaces; however, if during construction or at any time thereafter, the City of Santa Rosa increases the capacity of the parking lot within the Premises beyond 168 spaces, the minimum monthly rent in Article 4 shall be increased by \$100 per additional space per month.

For and in consideration of the rental and of the covenants and agreements set forth to be kept and performed by the Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises herein described for the term, at the rental and subject to and upon all of the terms, covenants and agreements set forth.

ARTICLE 1. SUMMARY OF LEASE PROVISIONS

Landlord: State of California, Department of Transportation

Tenant: City of Santa Rosa

Premises: SON-101-01, SON-101-02

Lease Term: 23 years 7 months (Article 3)

Minimum Monthly Rent [first year]: \$1,000.00 Monthly: (Article 4)

Adjustment to Rent: Annual 3% (Article 4)

Reevaluation: Only during any extension term, prior to start of option period via market evaluation with new rent to begin the first month of the option period. (Article 4)

Security Deposit: \$ 0.00 (Article 19)

Use: Daily Public Parking (no overnight) (Article 5)

Commercial General Liability Insurance: \$5,000,000. (Article 10)

Insurance provider: SIR of \$500,000

Excess coverage: California Joint Powers Risk Management Authority.

Address for Notices:

To Landlord:

Via US Mail:

Department of Transportation
Right of Way Airspace MS 11
P.O. Box 23440
Oakland, CA 94623-0440

In Person:

Department of Transportation
Right of Way Airspace MS 11
111 Grand Avenue
Oakland, CA 94612-3771

To Tenant: City of Santa Rosa

Attention: Director of Economic Development and Housing
90 Santa Rosa Avenue
Santa Rosa, CA 95404

References in this Article 1 to the other Articles are for convenience and designate other Articles where references to the particular item contained in the Summary of Lease Provisions appear. Each reference in this Lease to the Summary of Lease Provisions contained in this Article 1 shall be construed to incorporate all of the terms provided under the Summary of Lease Provisions. In the event of any conflict between the Summary of Lease Provisions and the balance of the Lease, the latter shall control.

ARTICLE 2. PREMISES

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, for the term, at the rent, and upon the covenants and conditions hereinafter set forth, that certain Premises known as Airspace Lease Area No. SON-101-01 and SON-101-02, situated in the City of Santa Rosa, County of Sonoma, said land or interest therein being shown on the map or plat marked "Exhibit A," attached hereto and by this reference made a part hereof, consisting of 148 original surface parking spaces plus an additional approximately 25,000 net square feet after the demolition of the buildings and construction of additional freeway support columns, which new larger Premises per Tenant's parking lot design will accommodate 168 total legal striped parking spaces.

EXCEPTING THEREFROM all those portions of the above-described property occupied by the supports and foundations of the existing structure, and subject to maintenance of safe distances from same.

ALSO EXCEPTING THEREFROM all that portion of said property above a horizontal plane 5 feet below the underside of the superstructure of the existing structure, which plane extends to a line 10 feet, measured horizontally, beyond the outermost protrusion of the superstructure of said existing structure, as existing at the time this Lease is executed by both parties.

This Lease is subject to (1) all easements, covenants, conditions, restrictions, reservations, rights of way, liens, encumbrances and other matters of record (2) all matters discoverable by physical inspection of the Premises and (3) all matters known to Tenant or of which Tenant has notice.

ARTICLE 3. TERM; EXTENSION

The term of this Lease shall be for 23 Years 7 Months, beginning on September 1, 2010 ("Commencement of Term") and terminating on March 31, 2034.

Provided Tenant is not in default beyond any applicable cure period at the time of Tenant's Extension Notice (defined below) or on the first day of the Extension Term, Tenant shall have the option to extend the term of this Lease for one (1) ten (10) year period (the "Extension Term"), upon the same terms and conditions as contained in this Lease. The monthly rent for the Extension Term shall be determined in accordance with Section 4.4 below. To exercise an extension option, Tenant shall give Landlord written notice at least one hundred eighty (180) days prior to the then-current Expiration Date ("Tenant's Extension Notice"). Tenant's Extension Notice shall be effective to extend the Term of the Lease without further documentation except as expressly herein provided.

At any time after Tenant has exercised its option to extend this Lease and the monthly rent for an Extension Term has been finally determined, Landlord and Tenant, upon request of either, will sign and acknowledge a written memorandum evidencing Tenant's exercise of the option and stating the date to which such Extension Term will extend and the rental rates that will be applicable during the Extension Term.

ARTICLE 4. RENT

4.1 Minimum Monthly Rent

Tenant shall pay to Landlord as minimum monthly rent, without deduction, setoff, prior notice, or demand, the sum of \$1,000.00 per month, in advance on the first day of each month, commencing on the Commencement of the Term, as described above. Rent for the second year and beyond shall be determined via sections 4.2 and 4.4 below.

The total Rent per month represents a fair market valuation of the Premises and applied to the new parking areas within the Premises created by the demolition of the 2 buildings as determined by the building footprint site plans attached as "Exhibit C." If during construction or at any time thereafter, the City of Santa Rosa increases the capacity of the parking lot within the Premises beyond 168 spaces, the minimum monthly rent shall be increased by \$100 per additional space per month.

Minimum monthly rent for the first month or portion of it shall be paid on the Commencement of the Term. Minimum monthly rent for any partial month shall be prorated at the rate of 1/30th of the minimum monthly rent per day. The Minimum Monthly Rent for any Extension Term shall be determined in accordance with the provisions of Section 4.4 below.

All rent checks shall have printed on their face the following tenancy reference number **04-SON-101-02-05** and shall be paid to Landlord at the following address:

Via Mail:

Department of Transportation
Attn: Cashier
P.O. Box 168019
Sacramento, CA 95816

Via Hand Delivery:

Department of Transportation
Attn: Cashier
1820 Alhambra Blvd., 2nd Floor
Sacramento, CA 95816

OR Department of Transportation
Right of Way Airspace Development
111 Grand Avenue, MS 11
Oakland, CA 95612

4.2 Adjustment to Rent

The Rent shall be adjusted annually by an amount equal to three percent (3%) of the then current monthly Rent.

4.3 [Section 4.3 has been intentionally deleted]

4.4 Reevaluation of Minimum Monthly Rent

Upon the exercise by Tenant to extend the term of this Lease beyond the original term set forth herein, it is the intent of Landlord and Tenant to determine a fair market lease rate during

the Extension Term and apply that fair market lease rate to the entire Premises area to determine the new reevaluated minimum monthly rent. Promptly upon receipt of Tenant's Extension Notice as set forth in Article 3 above, a fair market lease rate may be determined in the manner set forth below and shall be established as the monthly rent commencing on the start of the Extension Term or as soon thereafter upon the running of the notice period as provided for below.

Any monthly rent established by this section shall include an appropriate annual escalator, which amount shall be negotiated per the same provisions governing the rent reevaluation.

The term "fair market lease rate" means the highest lease rate estimated in terms of money which the leased premises, excluding improvements constructed by Tenant thereon, would bring if exposed for lease in the open market, with a reasonable time allowed to find a tenant, leasing with full knowledge of the purpose and uses to which the leased premises is being put and the restrictions on use contained in Section 5.1 of this lease.

The parties intend to establish the fair market lease rate through negotiation. If Landlord and Tenant have not mutually agreed upon the fair market lease rate for the leased premises within ninety (90) days from the date of the Tenant's Extension Notice, then Landlord shall unilaterally set the fair market lease rate based on data collected from a rent survey of reasonably comparable Caltrans and non-Caltrans owned properties and shall use the highest per square foot rate paid by a tenant for a comparable property with a comparable use within approximately a two mile radius of the subject freeway lease area. Landlord shall also set the escalator based on the San Francisco Bay Area CPI index. Once the new fair market lease rate and escalator are set as the new reevaluated monthly rent, Landlord shall provide written notice to Tenant of such amount.

If Landlord unilaterally sets the fair market lease rate, Tenant shall have the option to accept the new rate or within thirty (30) days of being notified in writing of the new rate, Tenant may object to the new rate and elect to terminate this Lease effective upon the natural expiration of the Extension Term with no penalty. Such termination notice must be provided by Tenant to Landlord in writing. Tenant's election to terminate the Lease shall place the Tenant in the same theoretical position as if the entire maximum term of this Lease had run its course and the lease term has expired. Tenant shall have no further rights other than those expressed within this Lease agreement relevant to termination. In the case that tenant does not provide notice of intent to terminate, and Tenant fails to pay the new fair market lease rate, Landlord shall treat Tenant's failure to pay the new lease rate as a material breach. [twenty percent increase penalty intentionally deleted].

4.5 Landlord's Compensation upon Transfer of Tenant's Leasehold

(a) Article 17 generally prohibits any assignments, transfers, subleases, and encumbrances. In the event that Landlord does specifically approve a voluntary assignment, transfer, sublease or other encumbrance of any of Tenant's rights in the leased premises, subject to Article 17, Tenant shall pay to Landlord compensation in connection with the transaction in accordance with the following schedule:

(i) Tenant shall pay to Landlord an amount equal to fifty percent (50%) of the "added value" in connection with any assignment, transfer, or sublease which is otherwise required to be submitted to Landlord for approval under the terms of this Lease.

(ii) [Intentionally deleted].

(b) "Added value" as used in this Section 4.5, means any consideration received by Tenant, whether lump sum or in installments [e.g. rent payments], resulting from the assignment or transfer or sublease of any portion of Tenant's interest in the leased premises above and beyond any amounts being paid to Landlord by Tenant for the use of the Premises. The leased premises shall be considered to have a zero value. Therefore, any compensation received by Tenant from the assignment or transfer of any portion of Tenant's interest in the leased premises shall be considered an "added value." In the case that no "added value" is received by Tenant, then no compensation shall be required to Landlord except for the fees agreed to in Section 17.8.

(c) Payment by Tenant of the amount of compensation required under this Section 4.5 is a condition to Landlord's giving its consent to any assignment, transfer, sublease or encumbrance which is subject to Landlord's approval under Article 17, and Landlord may withhold its consent to any such assignment, transfer, sublease or encumbrance until this compensation has been paid.

In addition, before Landlord gives its consent to any such transaction, Tenant shall deliver to the assignee, transferee, or subtenant a written summary of all sums due and owing to Landlord under this section and shall deliver to Landlord a written acknowledgement by the assignee, transferee, or subtenant that said person affirms that the sums are due and owing to Landlord and that said person accepts responsibility for ensuring that such sums are paid directly to Landlord.

(d) Payment by Tenant of the amount of compensation required under this Section 4.5 presumes that Tenant will be profiting by either subleasing the premises with Landlord's permission for a higher per square foot rental rate than the rate paid by Tenant to Landlord, or that Tenant will be assigning the lease to a third party with Landlord's permission and that the Tenant will be receiving an "added value" payment from the assignee in return for obtaining the leased premises. If the assignee becomes Landlord's successor tenant by merely assuming the lease agreement with no bonus to the Tenant, then there shall be no compensation required under this section.

4.6 Reevaluation on Change in Use

Landlord expressly reserves the right to establish a new minimum monthly rent as a condition to Landlord's approval of any use of the leased premises not specifically permitted by Section 5.1 and as a condition to any amendment to or changes in the uses permitted by that section.

4.7 Reevaluation on Transfer

Although Article 17 generally prohibits any assignments, transfers, subleases, and encumbrances, Landlord expressly reserves the right to establish a new minimum monthly rent in the manner provided in Section 4.4 as a condition to Landlord's specific approval of any transfer, or assignment of this Lease or any subletting of all or any portion of the leased premises. Notwithstanding the foregoing, Landlord shall not have the right to require a reevaluation under this section with respect to any transfer made pursuant to the exercise of any foreclosure remedies by a Lender, nor shall any prior reevaluation made pursuant to this section, including any accompanying extension of future reevaluation dates under Section 4.4 be of any effect whatsoever with respect to such Lender or the purchaser of this Lease pursuant to the exercise of any such foreclosure remedies.

ARTICLE 5. USE

5.1 Specified Use

City of Santa Rosa public parking lot for daily parking.

If at any time during the term of this lease Tenant converts use to any use other than as specified above, this shall be considered a default as defined in Section 16.1 and Landlord shall be afforded its option of remedies per Section 16.2.

5.2 Condition of Premises

Tenant and Landlord hereby agree that upon completion of Landlord's use of the Premises for construction and construction staging, Landlord shall clear the Premises of all equipment and debris prior to Tenant's taking possession of same. Tenant hereby agrees to construct necessary improvements to allow for Tenant's use of the Premises hereunder during the initial term of this Lease. Subject to the foregoing, Tenant hereby accepts the Premises in its AS-IS condition, subject to all applicable zoning, municipal, county, state and federal laws, ordinances and regulations governing and regulating the use of the Premises, and accepts this Lease subject thereto and to all matters disclosed thereby and by any exhibits attached hereto. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of the Premises or the suitability thereof for the conduct of Tenant's business, nor has Landlord agreed to undertake any modification, alteration or improvement to the Premises except as provided in this Lease.

Except as may be otherwise expressly provided in this Lease, the taking of possession of the Premises by Tenant shall in itself constitute acknowledgement that the Premises are in good and tenable condition, and Tenant agrees to accept the Premises in its then existing condition "as is", and that the Landlord shall not be obligated to make any improvements or modifications thereto except to the extent that may otherwise be expressly provided in this Lease.

Tenant represents and acknowledges that it has made a sufficient investigation of the conditions of the Premises existing prior to the execution of this Lease (including investigation of the surface, subsurface and groundwater for contamination and hazardous materials) and is satisfied that the Premises will safely support the type of improvements, if any, to be constructed and maintained by Tenant upon the Premises, that the Premises is otherwise fully fit physically and lawfully for the uses required and permitted by this Lease and that Tenant accepts all risks associated therewith.

Tenant acknowledges that (1) Landlord has informed Tenant prior to the commencement of the term of this Lease that the Landlord does not know nor has reasonable cause to believe that any release of any hazardous material has come to be located on or beneath the Premises; (2) prior to the commencement of the term of this Lease, the Landlord has made available to Tenant, for review and inspection, records in the possession or control of the Landlord which might reflect the potential existence of hazardous materials on or beneath the Premises; (3) Landlord has provided Tenant access to the Premises for a reasonable time and upon reasonable terms and conditions for purposes of providing to Tenant the opportunity to investigate, sample and analyze the soil and groundwater on the Premises for the presence of hazardous materials; (4) by signing

this Lease Tenant represents to Landlord that, except as otherwise may be stated on Exhibit "D" attached hereto and by this reference incorporated herein, Tenant does not know nor has reasonable cause to believe that any release of hazardous material has come to be located on or beneath the Premises and (5) with respect to any hazardous material which Tenant knows or has reasonable cause to believe has come or will come to be located on or beneath the Premises, Tenant has listed the hazardous material on attached Exhibit "D" and agrees promptly to commence and complete the removal of or other appropriate remedial action regarding the hazardous material at no cost or expense to Landlord and in full compliance with all applicable laws, regulations, permits, approvals and authorizations. The phrase "hazardous material," as used herein, has the same meaning as that phrase has in Section 5.6 of this Lease.

Tenant agrees that, except as otherwise expressly provided in this Lease, Tenant is solely responsible without any cost or expense to the Landlord to take all actions necessary, off as well as on the Premises to improve and continuously use the Premises as required by this Lease and in compliance with all applicable laws and regulations.

5.3 Compliance with Law

Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirements of duly constituted public authorities now in force or which may hereafter be in force, or with the requirements of the State Fire Marshal or other similar body now or hereafter constituted, relating to or affecting the condition, use or occupancy of the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant. Tenant shall not allow the Premises to be used for any unlawful purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer to be committed any waste upon the Premises.

5.4 Petroleum Products

Tenant shall not install facilities for, nor operate on the Premises, a gasoline or petroleum supply station. Tenant shall not permit on the Premises any vehicles used or designed for the transportation or storage of gasoline or petroleum products. Tenant shall also not permit on the Premises any bulk storage of gasoline or petroleum products.

5.5 Explosives and Flammable Materials

The Premises shall not be used for the manufacture of flammable materials or explosives, or for any storage of flammable materials, explosives or other materials or other purposes deemed by Landlord to be a potential fire or other hazard to the transportation facility. The operation and maintenance of the Premises shall be subject to the reasonable regulations of Landlord, which shall be communicated in writing to Tenant, so as to protect against fire or other hazard impairing the use, safety and appearance of the transportation facility. The occupancy and use of the Premises shall not be such as will permit hazardous or unreasonably objectionable

smoke, fumes, vapors or odors to rise above the surface of the traveled way of the transportation facility.

5.6 Hazardous Materials

Tenant shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations, including, but not limited to, the Federal Water Pollution Control Act (33 U.S.C. section 1251, et seq.), Resource Conservation and Recovery Act (42 U.S.C. section 6901, et seq.), Safe Drinking Water Act (42 U.S.C. section 300f, et seq.), Toxic Substances Control Act (15 U.S.C. section 2601, et seq.), Clean Air Act (42 U.S.C. section 7401, et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601, et seq.), Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code section 25249.5, et seq.), other applicable provisions of the California Health and Safety Code (section 25100, et seq., and section 39000, et seq.), California Water Code (section 13000, et seq.), and other comparable state laws, regulations and local ordinances relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances" under any such laws, ordinances or regulations (collectively "Hazardous Materials Laws"). As used in the provisions of this Lease, "hazardous materials" include any "hazardous substance" as that term is defined in section 25316 of the California Health and Safety Code and any other material or substance listed or regulated by any Hazardous Materials Law or posing a hazard to health or the environment. Except as otherwise expressly permitted in this Lease, Tenant shall not use, create, store or allow any hazardous materials on the premises. Fuel and other substances stored in a motor vehicle for the exclusive use in such vehicle is excepted.

In no case shall Tenant cause or allow the deposit or disposal of any hazardous materials on the Premises. Landlord, or its agents or contractors, shall at all times have the right to go upon and inspect the Premises and the operations thereon to assure compliance with the requirements herein stated. To the extent that this inspection may include taking samples of substances and materials present for testing, and/or the testing of soils or underground tanks on the Premises, Landlord shall provide not less than ten (10) days prior written notice to Tenant and shall use its best efforts not to disrupt or interfere with Tenant's use and enjoyment of the Premises.

In the event Tenant breaches any of the provisions of this Section, this Lease may be terminated immediately by Landlord and be of no further force or effect. It is the intent of the parties hereto that Tenant shall be responsible for and bear the entire cost of removal and disposal of hazardous materials introduced to the Premises during Tenant's period of use and possession as Tenant of the Premises. Tenant shall also be responsible for any clean-up and decontamination on or off the Premises necessitated by the introduction of such hazardous materials on the Premises. Tenant shall not be responsible for or bear the cost of removal or disposal of hazardous materials introduced to the Premises by any party other than Tenant during any period prior to commencement of Tenant's period of use and possession of the Premises as Tenant.

Tenant shall further hold Landlord, and its officers and employees, harmless from all responsibility, liability and claim for damages resulting from the presence or use of hazardous materials on the Premises during Tenant's period of use and possession of the Premises.

5.7 Signs

Tenant shall not construct, erect, maintain or permit any sign, banner or flag upon the Premises without the prior written approval of Landlord, which may be obtained through Landlord's encroachment permit process. Landlord hereby agrees that it will not withhold consent to any reasonable request by Tenant to locate public parking signage on the Premises. Tenant shall not place, construct or maintain upon the Premises any advertising media that include moving or rotating parts, searchlights, flashing lights, loudspeakers, phonographs or other similar visual or audio media. The term "sign" means any card, cloth, paper, metal, painted or wooden sign of any character placed for any purpose on or to the ground or any tree, wall, bush, rock, fence, building, structure, trailer or thing. Landlord may remove any unapproved sign, banner or flag existing on the Premises, following three (3) days written notice to Tenant requesting removal of same, and Tenant shall be liable to and shall reimburse Landlord for the cost of such removal.

5.8 Landlord's Rules and Regulations

Tenant shall faithfully observe and comply with the rules and regulations that Landlord shall from time to time promulgate for the protection of the transportation facility and the safety of the traveling public, a copy of which shall be provided to Tenant in writing prior to the execution of this Lease. Landlord reserves the right from time to time to make reasonable modifications to said rules and regulations. The additions and modifications to those rules and regulations shall be binding upon Tenant within thirty (30) days following delivery of a copy of them to Tenant.

5.9 Wrecked Vehicles

Tenant shall not park or store wrecked or inoperable vehicles of any kind on the Premises.

5.10 Vending

No vending of any kind or character shall be conducted, permitted or allowed upon the Premises.

5.11 Water Pollution Control

Tenant shall conform fully to the requirements of the Caltrans statewide NPDES Storm Water Permit, Order No. 99-06-DWQ, NPDES No. CAS000003, adopted by the State Water Resources Control Board on July 15, 1999. This permit regulates storm water and non-storm water discharges associated with activities within Caltrans right of way. Tenant shall develop, implement and maintain a Facility Pollution Prevention Plan (FPPP), describing the pollution

prevention practices associated with activities on facilities located within Caltrans right of way. Tenant shall comply with the statewide Permit by incorporating storm water management into its operational activities. The FPPP will accomplish compliance by implementing Best Management Practices (BMPs) described in the Caltrans Statewide Storm Water Management Plan (SWMP). Copies of the Permit and the Department of Transportation SWMP may be obtained from the Department of Transportation, Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, CA 98518, Telephone: 916-445-3520. Copies of the Permit and the SWMP are also available for review upon request.

Tenant shall not allow the unauthorized discharge of storm water runoff to private or public water drainage systems.

Tenant must comply with State and Federal storm water pollution control standards, including those of the State Water Resources Control Board, and the lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water to separate storm sewer systems or other watercourses under jurisdiction of the above agencies.

In order to minimize the discharge of pollutants, spilled, leaked fluids, and any other wastewater into the storm water drainage system, Tenant shall not allow vehicle or equipment washing, fueling, maintenance and repair on the Premises.

In order to minimize the discharge of pollutants to storm water resulting from contact with hazardous material, Tenant shall not allow the storage or stockpile of hazardous material on the Premises.

Landlord, or its agents or contractors, shall at all time have the right to go upon and inspect the Premises and the operations thereon to assure compliance with the requirements herein stated. To the extent such inspection may include taking samples of substances and materials present for testing, and/or the testing of storm sewer systems or watercourses on the Premises, Landlord shall provide not less than ten (10) days prior written notice to Tenant and shall use its best efforts not to disrupt or interfere with Tenant's use and enjoyment of the Premises.

ARTICLE 6. COMMENCEMENT AND COMPLETION OF INITIAL CONSTRUCTION

6.1 Commencement of Construction

Tenant shall commence construction of the improvements described in Tenant's final construction plans and detailed specifications within 365 calendar days of the date of taking possession of the Premises. For the purposes of this Article, construction shall be deemed to have commenced upon the issuance by Landlord of an encroachment permit under Section 7.1. In the event construction is not commenced within the time set forth herein, this Lease may be terminated by Landlord and thereafter be of no further force and effect.

6.2 Completion of Construction and Occupancy of Improvements

Construction of the improvements shall be completed consistent with the approved construction plans within 365 calendar days after the commencement of construction. Tenant shall not occupy or use any of the improvements until Tenant has received final building approval and a Certificate of Occupancy from the appropriate local agency and Landlord has

issued to Tenant an executed Encroachment Permit Completion Notice. In the event Tenant violates any of the provisions of this section, unless such delay or violation is due to any delay or failure to respond by Landlord, including but not limited to any delay in review for or issuance of an Encroachment Permit or executed Encroachment Permit Completion Notice, this Lease may be terminated by Landlord and be of no further force and effect.

ARTICLE 7. REQUIREMENTS FOR CONSTRUCTION OR ALTERATION OF IMPROVEMENTS

7.1 Encroachment Permit

Tenant, prior to construction or alteration of any improvements on or of the leased premises, shall obtain an executed Encroachment Permit from Landlord.

Issuance by Landlord of an Encroachment Permit shall be contingent upon Tenant's providing the following:

- (a) Final construction plans and detailed specifications. All such plans and specifications submitted by Tenant to Landlord shall be subject to the review and approval of Landlord, the State Fire Marshal, and if on an interstate freeway the Federal Highway Administration.
- (b) [subsection b intentionally deleted—public entities need not post a bond, but will provide copies of bonds posted by any contractor doing work on the Premises.]
- (c) Liability insurance as provided in Section 10.2.
- (d) A copy of a building permit issued by the appropriate local jurisdiction.
- (e) A copy of Tenant's contract with the general contractor actually performing construction.
- (f) Note and Deed of Trust, if any.
- (g) Loan escrow instructions, if any.
- (h) Final landscaping and irrigation plans and detailed specifications including a maintenance plan for litter removal, watering, fertilization and replacement of landscaping.
- (i) Evidence of compliance with the applicable provisions of all federal, state and local environmental statutes, laws, regulations and ordinances.

Tenant agrees to diligently apply for and meet all requirements for issuance of Encroachment Permit and Landlord agrees to not unreasonably withhold issuance of said Encroachment Permit. Tenant is obligated to deliver to Landlord the documents described in subdivisions (a) through (i) of this section regardless of whether an Encroachment Permit may have been issued inadvertently before these documents have been provided to Landlord.

7.2 Soil Testing

At Tenant's option, and sole cost and expense, Tenant may secure soil compaction tests and other tests as necessary for construction of Tenant's improvements and for the support of the improvements on the underlying land or structures thereon. Tenant shall notify Landlord of the location of all test borings, which shall not interfere in any manner with the operation of the facility by Landlord. The Premises has been and shall continue to be used as a public parking lot. Tenant hereby agrees that Landlord is making no representation regarding existing soil compaction or structural capability of the land to support the intended use. Tenant shall save

Landlord harmless of and from any loss or damage caused by inadequate soil compaction or other structural capacity for Tenant's proposed improvements.

7.3 Standard of Construction

Tenant agrees that any improvements or construction upon the premises shall: (a) be consistent with all fire safety requirements, (b) be subject to the approval of Landlord, and (c) in every respect comply with the laws, ordinances and regulations, federal, state, municipal or otherwise, that may govern construction of the same. Tenant shall not construct or place on the leased premises any improvements which impair Landlord's ability to maintain, operate, use, repair or improve any part of the transportation facility situated on the leased premises or on adjoining real property. Tenant shall save Landlord harmless of and from any loss or damage caused by reason of the construction of said improvements.

7.4 "As-Built" Plans

Within ninety (90) days after completion of construction of improvements or alterations, Tenant shall furnish Landlord, at Tenant's expense, one set of "As-Built" plans, according to a scale and size designated by Landlord, showing said improvements as constructed in detail, including the location of underground and aboveground utility lines.

7.5 Termination if Required Construction Proves Economically Infeasible

Articles 6 and 7 of this lease agreement require Tenant to submit plans for any construction activities conducted on the premises and to obtain an Encroachment Permit prior to beginning any construction related activities on the premises. If Landlord's Permits office reviews Tenant's plans, and thereafter requires Tenant to construct certain improvements or to employ certain construction methods as a condition of the Encroachment Permit, Tenant shall have the option to terminate this lease agreement if the required improvements or construction methods prove economically infeasible to Tenant.

ARTICLE 8. OWNERSHIP AND REMOVAL OF IMPROVEMENTS AND PERSONAL PROPERTY

8.1 Ownership of Improvements

All improvements constructed and placed on the Premises pursuant to Article 7 shall, at the expiration or termination of this Lease, vest in Landlord, excepting any parking meters and related equipment as well as public parking signage installed by Tenant, which shall remain the property of Tenant. Except as provided in the foregoing sentence or otherwise in this Lease, Tenant shall not remove any of these improvements from the Premises nor waste, destroy or modify them in any way. Tenant shall deliver these improvements to Landlord in good condition and repair, reasonable wear and tear excepted, without compensation to Tenant, any subtenant or third party, free and clear of all claims to or against them by Tenant, any subtenant or third party, and Tenant shall defend and hold Landlord harmless from all liability arising from such claims or from the exercise by Landlord of its rights under this section. Landlord and Tenant covenant for

themselves and all persons claiming under or through them that the improvements are real property.

8.2 Removal of Personal Property and Ownership at Termination

Any signs or other appurtenances, including specifically parking meters of any kind and related parking meter equipment, placed on the Premises by Tenant under this Lease are the personal property of Tenant. At the expiration or earlier termination of this Lease, Tenant shall remove all personal property placed on the Premises and shall restore the Premises to its previous condition, except surfacing, wheel rails and column guards, at Tenant's sole expense. Any personal property not removed by Tenant after thirty (30) days from Landlord's sending written notice to Tenant may be removed by Landlord. Tenant shall be liable to Landlord for all costs incurred by Landlord in effecting the removal of personal property and restoring the Premises. Landlord may, in its sole discretion, declare all personal property not removed by Tenant to be abandoned by Tenant and this property shall, without compensation to Tenant, become Landlord's property, free and clear of all claims to or against it by Tenant or any other person.

8.3 Removal of Improvements at Termination

Upon the expiration or earlier termination of this Lease, Landlord may, upon written notice, require Tenant to remove, at the sole cost and expense of Tenant, and not later than ninety (90) days after the expiration or earlier termination of this Lease, all structures, buildings and improvements of any kind whatsoever placed or maintained on the premises, whether below, on or above the ground by Tenant or others, including, but not limited to, foundations, structures, buildings, utility lines, switchboards, transformer vaults and all other service facilities constructed or installed upon the premises; and Tenant shall, upon the expiration or earlier termination of this Lease, immediately restore, and quit and peacefully surrender possession of the premises to Landlord in at least as good and usable condition, acceptable to Landlord, as the same was in at the time of first occupation thereof by Tenant or others, ordinary wear and tear excepted, and shall, in any event, leave the surface of the ground in a level, graded condition, with no excavations, holes, hollows, hills or humps. Should Tenant fail to so remove said structures, buildings and improvements and restore the premises, Landlord may sell, remove or demolish the same, and in the event of said sale, removal or demolition, Tenant shall reimburse Landlord for any cost or expense thereof in excess of any consideration received by Landlord as a result of such sale, removal or demolition.

ARTICLE 9. MAINTENANCE AND REPAIRS

9.1 Tenant's Obligations

Tenant, at its own cost and expense, shall maintain the leased premises, improvements and landscaping thereon, including fences, and guardrails heretofore, or hereafter erected, in first class order, repair and condition and in compliance with all requirements of law. Tenant shall also, at its own cost and expense, install or provide for the installation of all required lighting on the leased premises and shall maintain the lighting in first class order, repair and condition.

Landlord and Tenant recognize that because of the length of the term of this Lease it may

be necessary for Tenant to perform certain substantial maintenance, repair, rehabilitation or reconstruction (hereinafter collectively referred to as "repair" or "repairs") of the improvements in order to ensure that the premises are kept in first-class order, repair and condition.

"First-class order, repair and condition", as used herein, shall mean the maintenance, repair, renovation or replacement of buildings, equipment, furniture, fixtures, landscaping and appurtenances necessary to keep the premises in efficient and attractive condition, given the nature and age of the improvements at any time during the term of this Lease. Landlord and Tenant do not intend by the immediately preceding sentence that a property item is not first-class merely because of ordinary and reasonable wear and tear that does not materially and substantially reduce the attractiveness and utility of the item given the nature and age of the improvements at any time during the term of this Lease.

Tenant hereby expressly waives the right to make repairs at the expense of Landlord and the benefit of the provisions of Sections 1941 and 1942 of the California Civil Code or any successor thereto.

Tenant shall take all steps necessary to protect effectively the fences, guardrails, and the piers and columns, if any, of the structure from damage incident to Tenant's use of said premises and improvements, all without expense to Landlord. Tenant shall, at its own cost and expense, repair in accordance with Landlord's standards any damage to any property owned by Landlord, including, but not limited to, all fences, guardrails, piers and columns, caused by Tenant, subtenants, invitees or other third parties. At Tenant's request, Landlord will repair the damage to its property and Tenant agrees to reimburse Landlord promptly after demand for the amount Landlord has reasonably expended to complete the repair work.

Tenant shall designate in writing to Landlord a representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness and general order.

9.2 Landlord's Rights

In the event Tenant fails to perform Tenant's obligations under this Article, Landlord shall give Tenant notice to do such acts as are reasonably required to so maintain the Premises. If within thirty (30) days after Landlord sends written notice to repair, Tenant fails to do the work and diligently proceed in good faith to prosecute it to completion, Landlord shall have the right, but not the obligation, to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant promptly after demand plus interest as provided in Section 19.11 from the date of completion of such work to date of payment. Landlord shall have no liability to Tenant for any damage, inconvenience or interference with the use of the Premises by Tenant as a result of performing any such work, except that Landlord shall be liable for any damage or injury to any third party during the performance of any such work, if the damage or injury is solely due to Landlord's negligence.

ARTICLE 10. INSURANCE – DAMAGE -REPAIRS

10.1 Exemption of Landlord from Liability

This Lease is made upon the express condition that Landlord is to be free from all liability and claims for damages by reason of any injury to any person or persons, including

Tenant, or property of any kind whatsoever and to whomsoever belonging, including Tenant, from any cause or causes resulting from the operation or use of the Premises by Tenant, its agents, customers or business invitees, excepting only that resulting from the sole, active negligence of Landlord, its employees, agents or officers. Tenant hereby covenants and agrees to indemnify and save harmless Landlord from all liability, loss, cost and obligation on account of any such injuries or losses.

10.2 Commercial General Liability Insurance

Tenant shall at its own cost and expense procure and keep in force during the term of this Lease comprehensive bodily injury liability and property damage liability insurance adequate to protect Landlord, its officers, agents and employees, against any liability to the public resulting from injury or death of any person or damage to property in connection with the area, operation or condition of the Premises, including any and all liability of Landlord for damage to vehicles parked on the Premises. Such insurance shall be in an amount of not less than \$5,000,000 per occurrence for bodily injury and property damage. The limits of such insurance shall not limit the liability of Tenant. All insurance required hereunder shall be with companies to be approved by Landlord. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord may carry. Said policies shall name the State as an additional insured and shall insure against the contingent liabilities, if any, of Landlord and the officers, agents, and employees of Landlord and shall obligate the insurance carriers to notify Landlord, in writing, not less than thirty (30) days prior to the cancellation thereof, or any other change affecting the coverage of the policies. If said policies contain any exclusion concerning property in the care, custody or control of the insured, an endorsement shall be attached thereto stating that such exclusion shall not apply with regard to any liability of the State of California, its officers, agents, or employees. Tenant shall furnish to Landlord a Certificate of Insurance acceptable to Landlord within not more than ten (10) days after execution thereof. Landlord shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of Landlord, the insurance provisions in this Lease do not provide adequate protection for Landlord and for members of the public using the Premises, Landlord may require Tenant to obtain insurance sufficient in coverage, form and amount to provide adequate protection. Landlord's requirements shall be reasonable but shall be designed to assure protection from and against the kind and extent of the risks which exist at the time a change in insurance is required. Landlord shall notify Tenant in writing of changes in the insurance requirements; and if Tenant does not deposit copies of acceptable insurance policies with Landlord incorporating such changes within sixty (60) days of receipt of such notice, this Lease may be terminated, at Landlord's option, without further notice to Tenant, and be of no further force and effect.

10.3 Fire and Extended Coverage Insurance

[This Section intentionally deleted—No structures on Premises]

10.4 Business Automobile Liability Insurance

Tenant shall obtain and keep in effect at all times during the term of this Lease business

automobile liability insurance in an amount not less than \$1,000,000 for each occurrence combined single limit for bodily injury and property damage, including coverage for owned, non-owned and hired automobiles, as applicable. Any deductible under such policy shall not exceed \$10,000 each occurrence.

10.5 Garage Keeper's Legal Liability Insurance

[This Section intentionally deleted—Use is not an auto repair/service business]

10.5 Workers' Compensation Insurance

Tenant shall obtain and keep in effect at all times during the term of this lease workers' compensation insurance, including employers' liability, in an amount not less than \$1,000,000 for each accident, covering all employees employed in or about the Premises to provide statutory benefits as required by the laws of the State of California. Said policy shall be endorsed to provide that the insurer waives all rights of subrogation against Landlord.

10.6 Failure to Procure and Maintain Insurance

If Tenant fails to procure or maintain the insurance required by this Article in full force and effect, this Lease may be terminated immediately by Landlord and be of no further force or effect. In addition, if Tenant fails to procure or maintain the insurance required by this Article, Tenant shall cease and desist from operating any business on the Premises and the improvements erected thereon and shall prevent members of the public from gaining access to the Premises during any period in which such insurance policies are not in full force and effect.

10.7 Waiver of Subrogation

Tenant hereby waives any and all rights of recovery against Landlord, or against the officers, employees, agents and representatives of Landlord, for loss of or damage to Tenant or its property or the property of others under its control to the extent that such loss or damage is insured against under any insurance policy in force at the time of such loss or damages. Tenant shall give notice to its insurance carrier or carriers that the foregoing waiver of subrogation is contained in the Lease.

10.8 Duty to Repair or Restore

If during the term of this Lease any building or improvement on, in or appurtenant to the land at the commencement of the term or thereafter erected thereon shall be destroyed or damaged in whole or in part by fire or other cause, or shall be declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, Tenant shall, within ten (10) days of the occurrence of such event, give to Landlord immediate notice thereof, and Tenant shall within sixty (60) days commence, and diligently pursue to completion, the repair, replacement or reconstruction of the same, at least to the extent of the value and as nearly as possible to the character of the buildings and improvements existing immediately prior to the occurrence of such event; and Landlord shall in no event be called upon to repair, replace

or rebuild any such buildings or improvements. All buildings and improvements shall be repaired, replaced or reconstructed in accordance with the standards and requirements contained in Article 7. Tenant shall continue to pay rent hereunder during the period said improvements shall be damaged or destroyed.

10.9 Relief for Substantial Loss of Area and Damage During Final Years of Term

Tenant is relieved of the obligation to, but may, repair, restore, or reconstruct improvements damaged or destroyed during the final five (5) years of the term if (a) more than thirty-five percent (35%) of the improvements constructed on the premises are damaged or destroyed; (b) the damage or destruction is uninsured and is not required to be insured under any provision of this Lease; and (c) Tenant complies with all the following conditions:

(1) Gives Landlord notice of damage or destruction promptly but not later than ten (10) days after the event, detailing facts that qualify the casualty under this provision.

(2) Is not in default under any provision or condition of this Lease.

(3) Within ten (10) days after giving the above notice, effectively transfers to Landlord all right, title and interest in the security deposit.

(4) Continues to make all payments when due as required by the provisions of this Lease, applying the security deposit to payments latest in time under the Lease, provided that Landlord may, by notice given at any time after Tenant's notice of the damage or destruction, elect to terminate the Lease at a date stated in Landlord's notice and to forgive all rent for the period following that date.

(5) Pays in full, or has paid in full, any outstanding indebtedness incurred by Tenant and secured by an encumbrance or encumbrances on the leasehold.

(6) Delivers possession of the premises to Landlord and quitclaims all right, title and interest in the land and improvements promptly upon ceasing to do business on the premises.

(7) Causes to be discharged all liens and encumbrances resulting from any act or omission of Tenant.

(8) Removes or deposits the cost of removing all fixtures and improvements if Landlord so elects under the provisions of Article 8.

Tenant shall also be relieved of the obligations to repair, restore or reconstruct improvements because of an insured loss if Tenant complies with all the above provisions and also assigns all net proceeds from the insurance settlement to Landlord. "Net proceeds" shall mean the full amount of the insurance settlement less any amount paid to beneficiaries under deeds of trusts approved by Landlord pursuant to Section 19.9. Landlord and Tenant hereby waive the provisions of Sections 1932(2) and 1933(4) of the California Civil Code and waive the provisions of any other statutes which relate to the termination of a lease when the leased property is destroyed. Landlord and Tenant agree that such an event shall be governed by the terms of this Lease.

ARTICLE 11. PAYMENT OF TAXES

Tenant agrees to pay and discharge, or cause to be paid and discharged when due, before the same become delinquent, all taxes, assessments, impositions, levies and charges of every kind, nature and description, whether general or special, ordinary or extraordinary, which may at any time or from time to time during the term of this Lease, by or according to any law or

governmental, legal, political, or other authority whatsoever, directly or indirectly, be taxed, levied, charged, assessed or imposed upon or against, or which shall be or may be or become a lien upon the Premises or any buildings, improvements or structures at any time located thereon, or any estate, right, title or interest of Tenant in and to the Premises, buildings, improvements or structures. Specifically, and without placing any limitation on Tenant's obligations under the immediately preceding sentence, Tenant shall pay when due, before delinquency, any and all possessory interest taxes, parking taxes, workers' compensation, taxes payable to the California Franchise Tax Board, personal property taxes on fixtures, equipment and facilities owned by Tenant, whether or not the same have become so fixed to the land as to comprise a part of the real estate.

Tenant understands that any possessory interest of Tenant created in the Premises by this Lease may be subject to property taxation and that Tenant may be liable for payment of any such tax levied on such interest. Any obligation of Tenant under this Article, including possessory interest tax that the city or county may impose upon Tenant's interest herein, shall not reduce any rent due Landlord hereunder and any such obligation shall become the liability of and be paid by Tenant. In the event Tenant defaults in the payment of any of the obligations set forth in this Article, this Lease may be terminated immediately by Landlord and be of no further force or effect.

ARTICLE 12. RIGHT OF ENTRY

12.1 Inspection, Maintenance, Construction and Operation of Freeway Structures

Landlord, through its agents or representatives, and other city, county, state and federal agencies, through their agents or representatives, shall have full right and authority to enter in and upon the premises and any building or improvements situated thereon at any and all reasonable times during the term of this Lease for the purpose of inspecting the same without interference or hindrance by Tenant, its agents or representatives.

Landlord further reserves the right of entry for the purpose of inspecting the premises, or the doing of any and all acts necessary or proper on said premises in connection with the protection, maintenance, reconstruction, and operation of the freeway structures and its appurtenances; provided, further, that Landlord reserves the further right, at its discretion, to immediate possession of the same in case of any national or other emergency, or for the purpose of preventing sabotage, and for the protection of said freeway structures, in which event the term of this Lease shall be extended for a period equal to the emergency occupancy by Landlord, and during said period Tenant shall be relieved, to the degree of interference, from the performance of conditions or covenants specified herein. Landlord further reserves the right of entry by any authorized officer, engineer, employee, contractor or agent of the Landlord for the purpose of performing any maintenance activities upon the property which Tenant has failed to perform. All agreements which Tenant enters into for the sublease or use of all or any part of the leased premises shall contain a provision, approved by Landlord, which describes Landlord's right of entry as set forth in this Article.

12.2 Future Transportation Projects

(a) Landlord's Right to Possession of Premises.

Tenant understands and acknowledges that Landlord may, during the Term of this Lease, construct an "Approved and Funded Transportation Project", which may require the temporary or permanent use of all or a portion of the premises. An "Approved and Funded Transportation Project" is defined as a proposed transportation facility to be constructed by Landlord where the funds necessary to construct the facility are available to Landlord (regardless of the source of the funds) and where the transportation facility can reasonably be expected to be constructed within a reasonable period of time following termination of this Lease as provided in this Section 12.2.

In the event Landlord determines that the premises or any portion thereof will be affected by an "Approved and Funded Transportation Project", Landlord shall immediately notify Tenant of its intent to take possession of all or a portion of the premises and shall provide Tenant with at least ninety (90) days written notice within which to vacate the required area. Landlord's notice to Tenant shall indicate the area of the premises to be taken. If possession is to be a temporary use of all or part of the premises, Landlord shall additionally state in such notice to Tenant Landlord's reasonable estimate of the period of time of such temporary use by Landlord. Upon the date Landlord is entitled to possession of the premises, or portion thereof, Tenant shall peaceably surrender possession of the premises, or portion thereof, and comply with the restriction as stated in the notice. The failure of Tenant to vacate the required area of the premises shall constitute a material default and breach of this Lease entitling Landlord to exercise its rights and remedies.

(b) Reduction of Monthly Rent if Lease Remains Effective

For the period during which Landlord has taken possession of the premises under this section, and if this Lease remains effective, Tenant shall be entitled to receive a reduction in Monthly Rent for the term of Landlord's use of the area of the premises used by Landlord. The rent will be reduced by the same percentage as the useable square footage reduction as required by State's project. If Landlord's possession of the premises occurs within the initial term of this lease, then the initial term shall be extended without any additional rental obligation, for a period of time equal to Landlord's time of possession.

(c) Tenant's Sole Rights; Tenant's Waiver.

Landlord's taking of possession of the premises under this Section 12.2 does not constitute a taking or damaging entitling Tenant to compensation under any Condemnation provisions. The reduction in Monthly Rent or extension of the initial term as provided herein shall be Tenant's sole remedy against Landlord for Tenant's inability to possess or use part or all of the area of the premises as a result of an "Approved and Funded Transportation Project", and Tenant expressly agrees to hold Landlord harmless from any and all liability for, and expressly waives any right it may have to recover against Landlord, damages to the Premises, any improvements constructed on the premises or improvements thereon, and damages to any other property, project or operations including any claim for loss of business goodwill or resulting from Tenant's inability to use or possess all or any portion of the premises as a result of an "Approved and Funded Transportation Project". In addition, Tenant expressly recognizes that it is not entitled to receive benefits under the federal or state Uniform Relocation Assistance Act (United States Code, Section 7260, et seq.) as a result of Landlord's use or possession of any portion of the premises by an "Approved and Funded Transportation Project". Landlord agrees to instruct its authorized representatives to minimize the effect of any required construction on Tenant's use of the premises, both in the construction phase and in the permanent effect on the premises in connection with an "Approved and Funded Transportation Project". Landlord shall, at the end of the construction phase, return the paved surface of the premises (or that portion remaining

following construction of the "Approved and Funded Transportation Project") to an equivalent condition as it was in when Landlord took possession. Landlord has no duty to repair or re-install any parking lot specific improvements onto the Premises. Tenant shall not be liable for any injury to person or damage to property (other than any of Tenant's property not timely removed from the premises) caused by or resulting from the construction of the "Approved and Funded Transportation Project."

12.3 Maintenance Work and Retrofitting of Freeway Structures

Tenant understands and agrees that Landlord may be required to perform maintenance or retrofit work on all or a part of the freeway structures which are situated on and above the premises. Landlord shall have the right to impose such restrictions on Tenant's right to enter, occupy, and use the premises and to maintain the existing improvements or construct improvements thereon as Landlord deems are necessary to enable it to complete construction of all freeway structural retrofit work without interference from Tenant.

In the event Landlord determines that it needs to obtain possession of all or a portion of the premises, or needs to place restrictions on Tenant's use of the premises, Landlord shall, at least ninety (90) days prior to the effective date of the commencement of such possession or restrictions notify Tenant in writing describing the extent of the possession or restrictions and the effective date of their commencement. Upon the effective date of said notice, Tenant shall peaceably surrender possession of the premises and comply with the restrictions as stated therein.

The minimum monthly rent stated in Section 4.1, as adjusted and reevaluated in accordance with Section 4.2 or 4.3 and 4.4, shall be reduced by an amount equal to the proportion which the area of the portion of the premises which Tenant is restricted from using or which has been surrendered to Landlord bears to the total area of the leased premises (which shall be based on the proportion of the total number of parking spaces compared to the number of spaces remaining following Landlord's possession of a portion of the spaces). Landlord further agrees that in the event of any temporary possession during the initial term of this lease, then the term shall be extended for a period equal to the time of Landlord's possession. This reduction in rent and term extension shall be Tenant's sole remedy against Landlord for Tenant's inability to possess or use the entire area of the premises, and Tenant expressly agrees to hold Landlord harmless from any and all liability for, and expressly waives any right it may have to recover against Landlord, damages to the premises, any improvements constructed on the premises, and waives its right to use or possess any portion of the premises or improvements thereon, and damages to any other property, project or operation caused by Landlord's possession, imposition of restrictions or Tenant's inability to use or possess all or any portion of the premises. In addition, Tenant expressly recognizes that it is not entitled to receive benefits under the federal or state Uniform Relocation Assistance Acts (United States Code, title 42, Section 4601, et seq.; California Government Code, Section 7260, et seq.) as a result of Landlord's use or possession of any portion of the premises.

Tenant shall conduct its operations on the premises in such a manner so as not to interfere with Landlord's or its contractor's performance of any structural retrofit work done on or above the premises. In the event that Tenant determines that Tenant cannot safely conduct any operations on the premises during Landlord's retrofit, then Tenant shall have the right to vacate the entire premises and to receive a commensurate reduction in any rents during such period. Tenant acknowledges that the performance of the structural retrofit work may cause damage to

paving or other improvements constructed by Tenant on the premises. Tenant expressly agrees to hold Landlord harmless from all such damage to its improvements, except that at the conclusion of the retrofit work, Landlord shall restore the premises to their preexisting condition at no cost to Tenant.

ARTICLE 13. CONDEMNATION BY PUBLIC ENTITIES OTHER THAN LANDLORD

13.1 Definitions

(a) "Condemnation" means (1) the exercise of the power of eminent domain, whether by legal proceedings or otherwise, by a public entity having that power, that is, a condemnor, and (2) a voluntary sale or transfer to any condemnor, either under the threat of condemnation or while legal proceedings in condemnation are pending.

(b) "Award" means all compensation, sums, or anything of value awarded, paid or received upon a total or partial condemnation of the leased premises.

(c) "Substantial taking" means a taking of a portion of the leased premises by condemnation which, assuming a reasonable amount of reconstruction on the remainder, substantially impairs Tenant's ability to use the remainder for the purposes permitted under this Lease.

13.2 Termination of Lease as to Part Condemned

In the event the whole or any part of the premises is taken by condemnation by a public entity, other than Landlord, in the lawful exercise of its power of eminent domain, this Lease shall cease as to the whole or the part condemned upon the date possession of the whole or that part is taken by the public entity.

13.3 Partial Taking

If a part of the leased premises is taken by condemnation but there is no substantial taking of the premises, Tenant shall continue to be bound by the terms, covenants, and conditions of this Lease. However, if the fair rental value of the remainder will be less than the rent required by this Lease, the minimum monthly rent and adjusted minimum monthly rent shall be reduced to an amount equal to the fair rental value as of the date possession of the part is taken by the public entity.

If the part taken by condemnation constitutes a substantial taking of the leased premises, Tenant may elect to:

(a) Terminate this Lease and be absolved of obligations hereunder which have not accrued at the date possession is taken by the public entity; or

(b) Continue to occupy the remainder of the premises and remain bound by the terms, covenants and conditions of this Lease. If Tenant elects to continue to occupy the remainder, and if the fair rental value of the remainder will be less than the rent required by this Lease, the minimum monthly rent and adjusted minimum monthly rent shall be reduced to the fair rental value as of the date possession of the part is taken by the public entity. Any such adjustments shall be based on the proportionate adjustment in the number of parking spaces remaining available for use by Tenant.

Tenant shall give notice in writing of its election to terminate this Lease hereunder within

thirty (30) days of the date possession of the part is taken by the public entity. If Tenant fails to give Landlord its written notice of termination within the time specified, this Lease shall remain in full force and effect except that the minimum monthly rental shall be reduced as provided in this section.

If it continues to occupy the remainder, Tenant, whether or not the award upon the taking by condemnation is sufficient for the purpose, shall, at its expense, within a reasonable period of time, commence and complete restoration of the remainder of the leased premises as nearly as possible to its value, condition and character immediately prior to such taking; provided, however, that in the case of a taking for temporary use, Tenant shall not be required to effect restoration until such taking is terminated. Tenant shall submit to Landlord its plans for the restoration of the remainder within ninety (90) days of the date possession of the part is taken by the public entity.

13.4 Adjustment of Rent

Should a portion of the premises be condemned and the rent be reduced as provided above, the reduced rent shall continue to be subject to adjustment and reevaluation in accordance with Article 4.

13.5 Compensation

Landlord shall be entitled to receive and shall receive all compensation for the condemnation of all or any portion of the premises by exercise of eminent domain except as hereinafter provided. Tenant shall be entitled to that portion of said compensation which represents the present worth as of the date possession is taken by the public entity of the remaining use under the Lease of all improvements constructed by Tenant on the leased premises located within the part taken by the public entity, including the cost of any improvements made by Tenant. Tenant may also assert a claim for loss of business goodwill under the provisions of Section 1263.510 of the California Code of Civil Procedure. Tenant shall assert no claim for loss of bonus value. For the purposes of this Article, "condemnation bonus value" means that value attributable to the fact that the rental rate Tenant is obligated to pay under this Lease is less than the fair market lease rate of the premises as defined in Article 4 above.

If all or a portion of the leased premises is condemned at a time when Tenant possesses an interest in real property located outside the leased premises (hereinafter called "outside property"), Tenant may claim entitlement to an award of damages accruing to the outside property by reason of the severance therefrom of the condemned portion of the leased premises as provided in the Eminent Domain Law (California Code of Civil Procedure Sections 1230.010 through 1273.050).

ARTICLE 14. UTILITIES

Tenant shall pay when due, and shall hold Landlord harmless from any liability for, all charges for water, gas, heat, light, power, telephone, sewage, air conditioning and ventilating, scavenger, janitorial and landscaping services and all other materials and utilities supplied to the Premises. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service furnished to the Premises, and no such failure or interruption shall entitle

Tenant to terminate this Lease unless due to the fault of Landlord, its agents, employees or officers.

ARTICLE 15. LIENS

15.1 Exemption of Landlord from Liability

Tenant shall at all times indemnify and save Landlord harmless from all claims for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment or facilities within the premises, and from the cost of defending against such claims, including attorney fees.

15.2 Tenant's Obligations

In the event a lien is imposed upon the premises as a result of such construction, repair, alteration or installation, Tenant shall either:

- (a) Record a valid Release of Lien, or
- (b) Deposit sufficient cash with Landlord to cover the amount of the claim on the lien in question and authorize payment to the extent of said deposit to any subsequent judgment holder that may arise as a matter of public record from litigation with regard to a lienholder claim, or
- (c) Procure and record a bond in accordance with Section 3143 of the California Civil Code, which frees the premises from the claim of the lien and from any action brought to foreclose the lien.

Should Tenant fail to accomplish one of the three optional actions within 15 days after the filing of such a lien, the Lease shall be in default and shall be subject to immediate termination.

ARTICLE 16. DEFAULT

16.1 Default

The occurrence of any of the following shall constitute a material breach and default of this Lease by Tenant.

(a) Any failure by Tenant to pay rent or any other monetary sums required to be paid hereunder, where such failure continues for ten (10) days after written notice thereof has been given by Landlord to Tenant.

(b) The abandonment or vacation of the Premises by Tenant. Failure to occupy and operate the Premises for thirty (30) consecutive days following the mailing of written notice from Landlord to Tenant calling attention to the abandonment shall be deemed an abandonment or vacation.

(c) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's

assets, where possession is not restored to Tenant within forty-five (45) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets, where such seizure is not discharged within thirty (30) days.

(d) The failure by Tenant to comply with any provision of any law, statute, zoning restriction, ordinance or governmental rule, regulation or requirement as set forth in Section 5.3 of this Lease following thirty (30) days notice to Tenant of any such violation.

(e) The failure by Tenant to comply with the requirements regarding hazardous materials as set forth in Section 5.6 of this Lease following thirty (30) days notice to Tenant of any such violation.

(f) The failure by Tenant to pay any tax, assessment, imposition, levy or charge of any kind as set forth in Article 11 of this Lease.

(g) The failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such default is such that it cannot be reasonably cured within such thirty (30) day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

(h) Any attempt by Tenant to assign this lease or execute a sublease without Landlord's express written consent in accordance with the terms of this lease.

16.2 Landlord's Remedies

In the event of any material default or breach by Tenant, Landlord may at any time thereafter, without limiting Landlord in the exercise of any right of remedy at law or in equity which Landlord may have by reason of such default or breach, terminate Tenant's right to possession by any lawful means effective upon ten (10) days written notice to Tenant, in which case this Lease shall immediately terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the following:

(a) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

(b) 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 is proved could have been reasonably avoided; plus

(c) 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 is proved could be reasonably avoided; plus

(d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom; plus

(e) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable State law. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the premises, which Landlord in its sole discretion deems reasonable and necessary. As used in subparagraphs (a) and (b), above, the "worth at the time of award" is computed by including interest on the

principal sum at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco from the date of default. As used in subparagraph (c), above, the "worth at the time of award" is computed by discounting such amount at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco at the time of award. The term "rent" as used in this Article shall be deemed to be and to mean rent to be paid pursuant to Article 4 and all other monetary sums required to be paid by Tenant pursuant to the terms of this Lease.

16.3 Late Charges

Tenant hereby acknowledges that late payment by Tenant to Landlord of rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any installment of rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within ten (10) days after such amount shall be due, a late charge equal to \$100.00 shall be added to the payment, and the total sum shall become immediately due and payable to Landlord. Landlord shall apply any monies received from Tenant first to any accrued delinquency charges and then to any other payments due under the Lease. The parties hereby agree that such late charges represent a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charges by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

ARTICLE 17. ASSIGNMENTS, TRANSFERS, SUBLEASES AND ENCUMBRANCES

17.1 Prohibition on Assignments, Transfers and Subleases

Tenant shall not assign, transfer or sublease all or any part of its interest in this Lease or in the Premises, and Landlord reserves the right to deny its consent to any assignment, transfer or sublease of all or any part of this Lease or the Premises.

17.2 Voluntary Assignments and Subleases

Tenant shall not assign or transfer all or any part of its interest in this Lease or in the Premises, or sublet all or any part of the Premises, or allow any other person or entity (except Tenant's authorized representatives) to occupy or use all or any part of the Premises without first obtaining Landlord's written consent. Tenant hereby agrees that any attempt to change the use of the premises is subject to Landlord's sole and absolute discretion.

Landlord shall have the sole and exclusive right to consent or withhold its consent to any assignment, transfer, or sublease.

Tenant's failure to obtain Landlord's required written approval of any assignment, transfer or sublease shall render such assignment, transfer or sublease void. Occupancy of the Premises by a prospective transferee, subtenant or assignee before approval of the transfer, sublease or assignment by Landlord shall constitute a breach of this Lease.

Landlord's consent to any assignment, transfer or sublease shall not constitute a waiver of any of the terms, covenants or conditions of this Lease. Such terms, covenants and conditions

shall apply to each and every assignment, sublease and transfer of rights under this Lease and shall be severally binding upon each and every party thereto. Any document to transfer, sublet, or assign the Premises or any part thereof shall incorporate directly or by reference all the provisions of this Lease.

17.3 Change in Partnership

If Tenant is a partnership, a withdrawal or change, voluntary, involuntary or by operation of law, or the dissolution of the partnership, shall be deemed a voluntary assignment subject to the provisions of Section 17.2.

17.4 Change in Tenants

If Tenant consists of more than one person, a purported assignment, voluntary, involuntary or by operation of law, from one to another shall be deemed a voluntary assignment subject to the provisions of Section 17.2.

17.5 Change in Corporation

If Tenant is a corporation, any dissolution, merger, consolidation, or other reorganization of Tenant, or the sale or other transfer of a controlling percentage of the capital stock of Tenant, or the sale of 51% of the value of the assets of Tenant, shall be deemed a voluntary assignment subject to the provisions of Section 17.2. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least 51% of the total combined voting power of all classes of Tenant's capital stock issued, outstanding, and entitled to vote for the election of directors.

17.6 Assignment of Rent from Subtenants

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

17.7 Information to be Supplied to Landlord

Tenant shall supply Landlord with all information Landlord determines to be necessary on all persons or firms to which Tenant proposes to sublet, transfer or assign any of its interest in the Premises, or which might establish rights to enter, control, or otherwise encumber the Premises by reason of any agreement made by Tenant. In addition, with respect to any proposed sublease, transfer or assignment, Tenant shall provide Landlord with:

- (a) a copy of all documents relating thereto,
- (b) a statement of all terms and conditions of said transaction, including the consideration therefor, and

(c) a copy of the financial statement of the prospective subtenant, transferee or assignee.

17.8 Processing Fees for Assignments, Transfers and Subleases

(a) A fee of one thousand five hundred dollars (\$1,500) shall be paid to Landlord for processing each consent to assignment, transfer, or sublease to Landlord as required by this Lease. This processing fee shall be deemed earned by Landlord when paid and shall not be refundable.

(b) If a processing fee has been paid by Tenant for another phase of the same transaction, a second fee will not be charged.

(c) The amounts specified above for processing fees shall be automatically adjusted at the end of the first year of this Lease and every year thereafter in accordance with an annual fee schedule adopted by Landlord. Landlord shall make said fee schedule available to Tenant upon receiving a request therefor.

17.9 Encumbrances

Tenant shall not encumber the Premises in any manner whatsoever.

ARTICLE 18. NONDISCRIMINATION

Tenant, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person, on the ground of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in the use of said facilities, (2) in connection with the construction of any improvements on said land and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors, (3) such discrimination shall not be practiced against the public in its access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed or operated on, over, or under the premises, and (4) Tenant shall use the land in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21 (49 C.F.R., Part 21) and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the Landlord shall have the right to terminate this Lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

ARTICLE 19. SECURITY DEPOSIT

Concurrently with Tenant's execution of this Lease, Tenant shall deposit with Landlord the sum of \$0.00 as a Security Deposit. Said sum shall be held by Landlord as a Security Deposit for the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease to be kept and performed by Tenant during the term hereof. If Tenant defaults with respect to any provision of this Lease, including but not limited to the provisions relating to the payment of rent and any of the monetary sums due herewith, Landlord may use, apply or retain all or any part

of this Security Deposit for the payment of any other amount which Landlord may spend by reason of Tenant's default or use it to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of said Deposit is so used or applied, Tenant shall within ten (10) days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount; Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep this Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant at the expiration of the Lease term and after Tenant has vacated the premises.

ARTICLE 20. ADDITIONAL PROVISIONS

20.1 Quiet Enjoyment

Landlord covenants and agrees with Tenant that upon Tenant paying rent and other monetary sums due under the Lease and performing its covenants and conditions, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the term.

20.2 Captions, Attachments, Defined Terms

The captions of the Articles of this Lease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Lease. Exhibits attached hereto, and addenda and schedules initiated by the parties, are deemed by attachment to constitute part of this Lease and are incorporated herein. The words "Landlord" and "Tenant," as used herein, shall include the plural as well as the singular. Words used in neuter gender include the masculine and feminine and words in the masculine or feminine gender include the neuter. If there be more than one Landlord or Tenant, the obligations hereunder imposed upon Landlord or Tenant shall be joint and several. If the Tenants are husband and wife, the obligations shall extend individually to their sole and separate property as well as to their community property.

20.3 Entire Agreement

This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Landlord and Tenant relative to the premises and this agreement and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. Landlord and Tenant agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents and representatives relative to the leasing of the premises are merged in or revoked by this agreement.

20.4 Severability

If any terms or provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be

affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

20.5 Costs of Suit

If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of rent or possession of the premises, the losing party shall pay the successful party a reasonable sum for attorney's fees which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Should Landlord, without fault on Landlord's part, be made a party to any litigation instituted by Tenant or by any third party against Tenant, or by or against any person holding under or using the premises by license of Tenant, or for the foreclosure of any lien for labor or materials furnished to or for Tenant or any such other person or otherwise arising out of or resulting from any act or transaction of Tenant or of any such other person, Tenant shall save and hold Landlord harmless from any judgment rendered against Landlord or the premises or any part thereof, and all costs and expenses, including reasonable attorney's fees, incurred by Landlord in connection with such litigation.

20.6 Time, Joint and Several Liability

Time is of the essence of this Lease and each and every provision hereof, except as to the conditions relating to the delivery of possession of the premises to Tenant. All the terms, covenants and conditions contained in this Lease to be performed by either party if such party shall consist of more than one person or organization, shall be deemed to be joint and several, and all rights and remedies of the parties shall be cumulative and non-exclusive of any other remedy at law or in equity.

20.7 Binding Effect; Choice of Law

The parties hereto agree that all the provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate section hereof; and all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Lease shall be governed by the laws of the State of California.

20.8 Waiver

No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed and any waiver or the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Acceptance by Landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Landlord in writing.

20.9 Surrender of Premises

The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of the Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies.

20.10 Holding Over

If Tenant remains in possession of all or any part of the premises after the expiration of the term hereof, with or without the express or implied consent of Landlord, such tenancy shall be from month to month only and not a renewal hereof or an extension for any further term, and in such case, rent and other monetary sums due hereunder shall be payable at the time specified in this Lease and such month-to-month tenancy shall be subject to every other term, covenant, condition and agreement contained herein, except that the monthly rental rate set forth in Article 4 shall be increased by ten percent (10%) effective the first month of the holdover period. Landlord further reserves the right to review the rental rates of all holdover tenants periodically for the purpose of making reasonable adjustments to the monthly rental payments.

20.11 Interest on Past Due Obligations

Except as expressly herein provided, any amount due to Landlord not paid when due shall bear interest at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco from the due date. Payment of such interest together with the amount due shall excuse or cure any default by Tenant under this Lease.

20.12 Recording

Neither Landlord nor Tenant shall record this Lease.

20.13 Notices

All notices or demands of any kind required or desired to be given by Landlord or Tenant hereunder shall be in writing and shall be deemed delivered forty-eight (48) hours after depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the Landlord or Tenant respectively at the addresses set forth in Article 1.

20.14 No Reservation

Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease; it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

20.15 Corporate Authority

If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he/she is duly authorized to execute and deliver this

Lease on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the Bylaws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Tenant is a corporation, Tenant shall, within thirty (30) days after execution of this Lease, deliver to Landlord a certified copy of resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Lease.

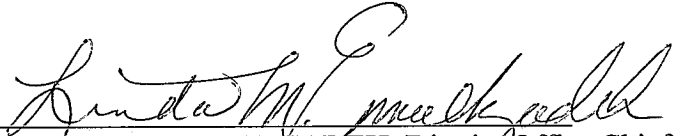
20.16 Force Majeure

If either Landlord or Tenant shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, governmental restrictions, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this Lease) or other cause without fault and beyond the control of the party obligated (except financial inability), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Nothing in this clause shall excuse Tenant from prompt payment of any rent, taxes, insurance or any other charge required of Tenant, except as may be expressly provided in this Lease.

In Witness Whereof Landlord and Tenant have executed this Lease as of the date first written above.

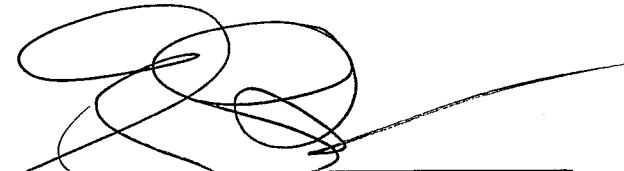
LANDLORD: STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Dated: 4/26/2010

By: 
LINDA M. EMADLADEH, District Office Chief
R/W Airspace, Excess Lands and LPA

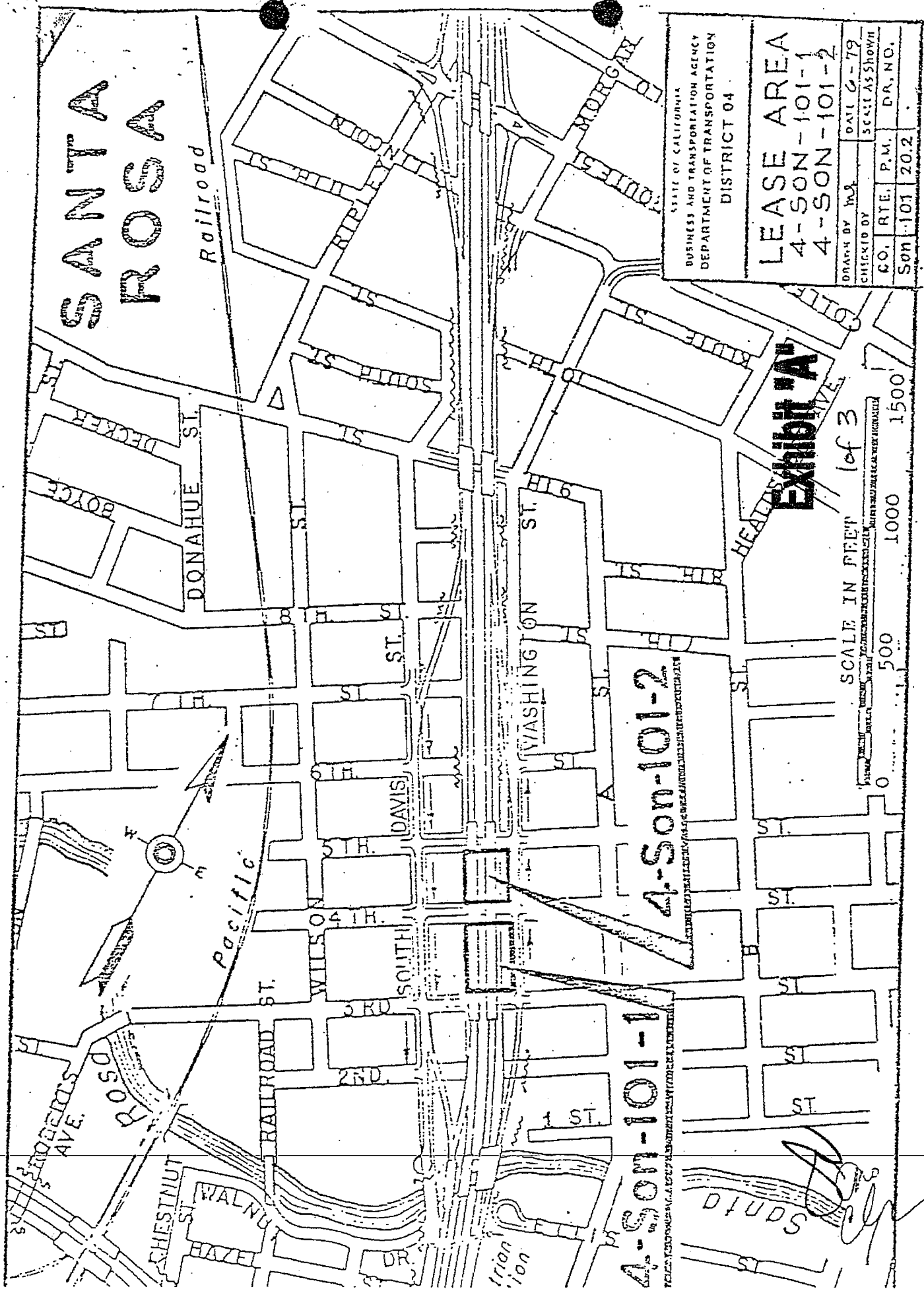
TENANT: CITY OF SANTA ROSA

Dated: April 13, 2010

By: 
~~SUSAN GOREN, Mayor~~
GARY WYSOCKY, Vice Mayor

APPROVED AS TO FORM:


City Attorney's Office



SANTA ROSA

Railroad

STATE OF CALIFORNIA
 BUSINESS AND TRANSPORTATION AGENCY
 DEPARTMENT OF TRANSPORTATION
 DISTRICT 04

LEASE AREA
 4-Son-101-1
 4-Son-101-2

DRAWN BY	W.S.	DATE	6-79
CHECKED BY		SCALE	AS SHOWN
CO.	RTE.	P.M.	DR. NO.
Son 101		20.2	

4-Son-101-2

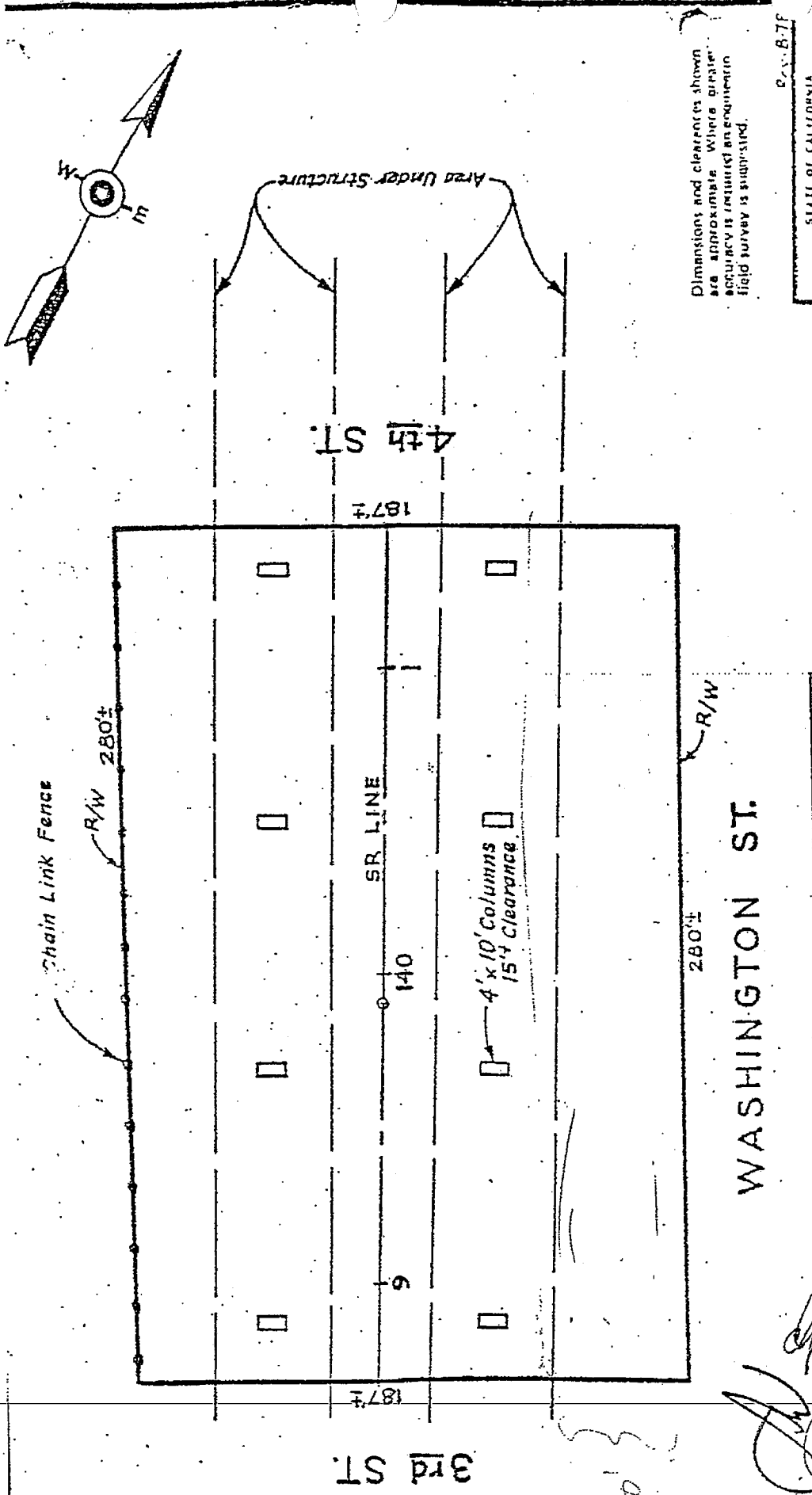
4-Son-101-1

Exhibit "A"

SCALE IN FEET 1 of 3

0 500 1000 1500

Santa Rosa



Dimensions and clearances shown are approximate. Where greater accuracy is required an engineering field survey is suggested.

STATE OF CALIFORNIA
BUSINESS AND TRANSPORTATION AGENCY
DEPARTMENT OF TRANSPORTATION
DISTRICT 04

LEASE AREA
4-Son-101-1

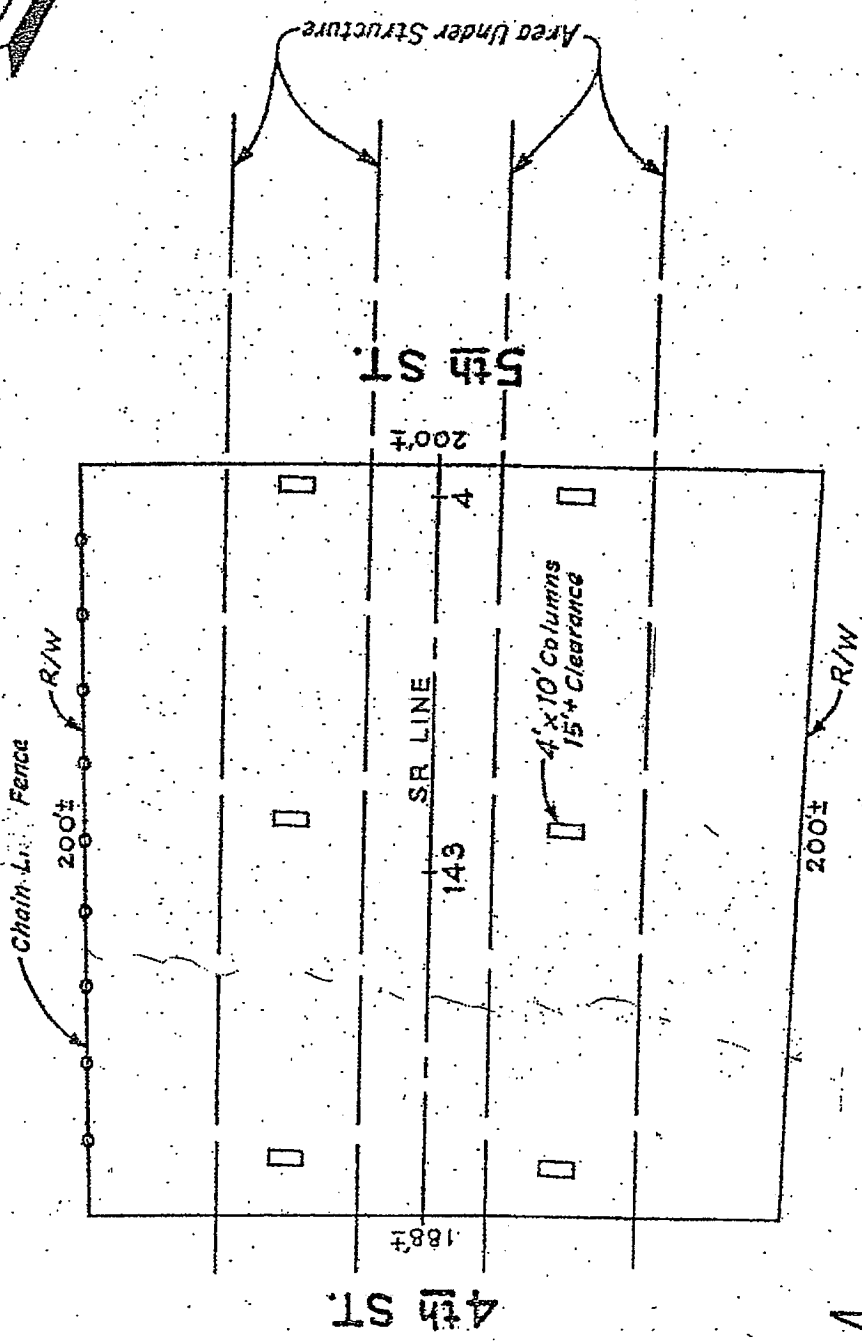
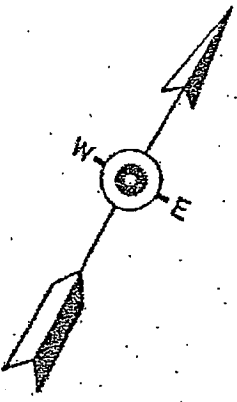
DRAWN BY: M.L. DATE: 3-73
CHECKED BY: SCALE: AS SHOWN
CO. RTE. P.M. DR. NO.
Son 101 202

Exhibit "A"

2 of 3

- Gross Area - 52,360± Sq. Ft.
- Area of Columns - 320± Sq. Ft.
- Net Area - 52,040± Sq. Ft.
- Area Under Structure - 22,400± Sq. Ft.
- Area To Be Leased - 29,640± Sq. Ft.

[Handwritten Signature]



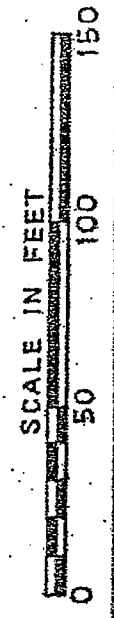
STATE OF CALIFORNIA
 TRANSPORTATION AGENCY
 DEPARTMENT OF PUBLIC WORKS
 DIVISION OF HIGHWAYS
 DISTRICT IV

LEASE AREA
4-Son-101-2

DRAWN BY	M.L.	DATE	3-73
CHECKED BY		SCALE	AS SHOWN
CO.	RTE. 101	P.M.	DR. NO.
		20.2	

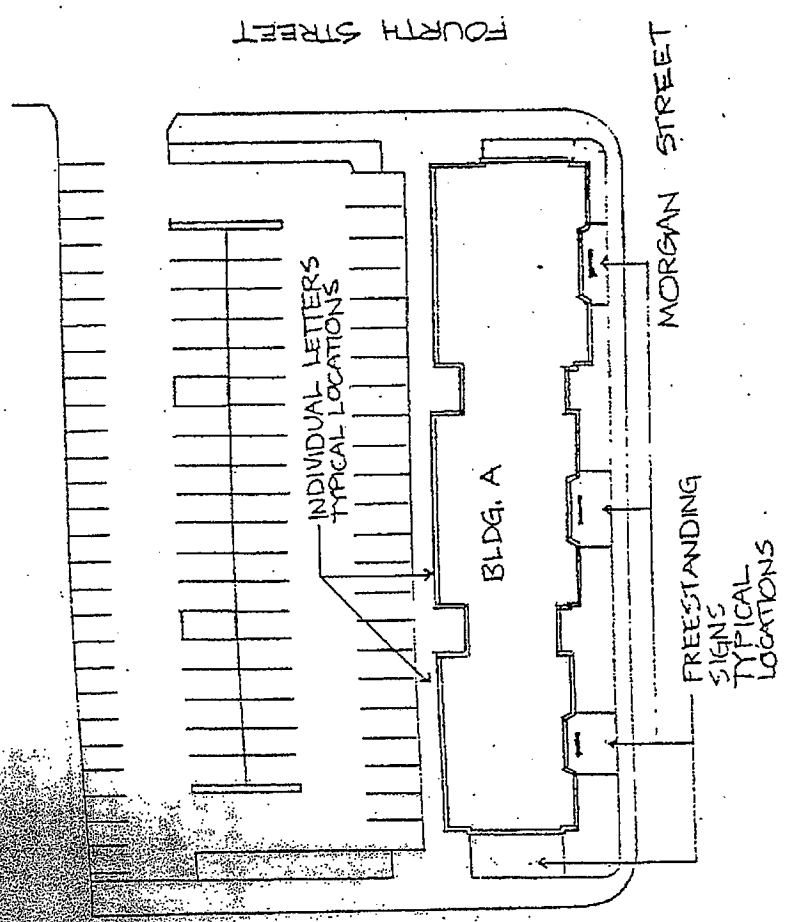
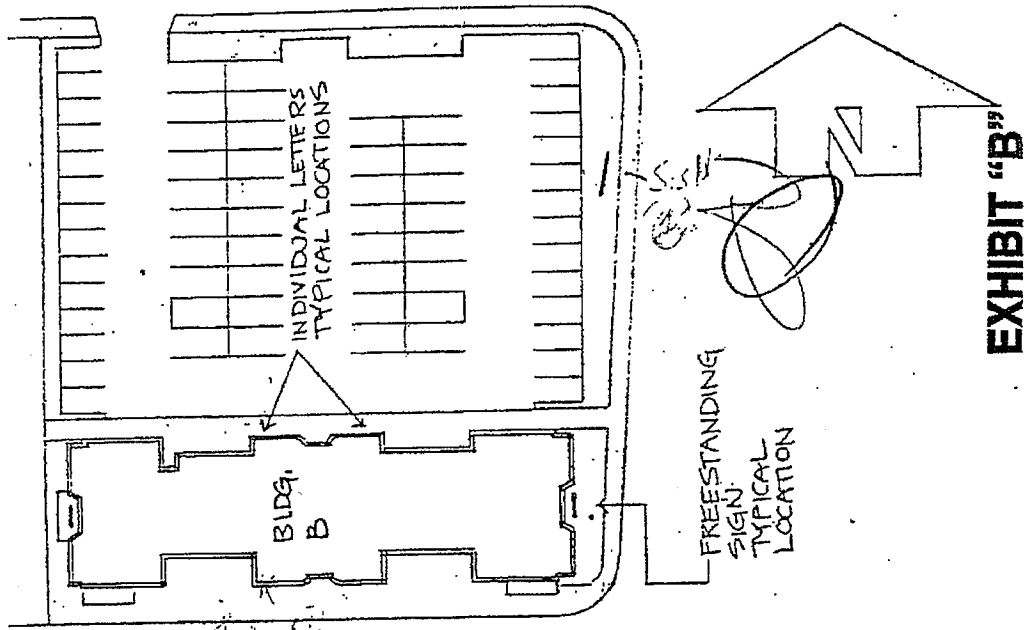
Exhibit "A"

3 of 3



WASHINGTON ST.

Gross Area - 38,800 ± Sq. Ft.
 Area of Columns - 240 ± Sq. Ft.
 Net Area - 38,560 ± Sq. Ft.
 Area Under Structure - 16,000 ± Sq. Ft.



SITE
PLAN

SCOTT SIGN COMPANY/SCOTT ARCHITECTURAL GRAPHICS
922 NORTH DUTTON AVENUE SANTA ROSA CALIFORNIA 95401 707/545-4519

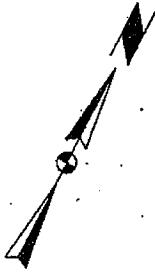
SITE
PLAN

RAILROAD
PLAZA
SANTA ROSA
CALIFORNIA

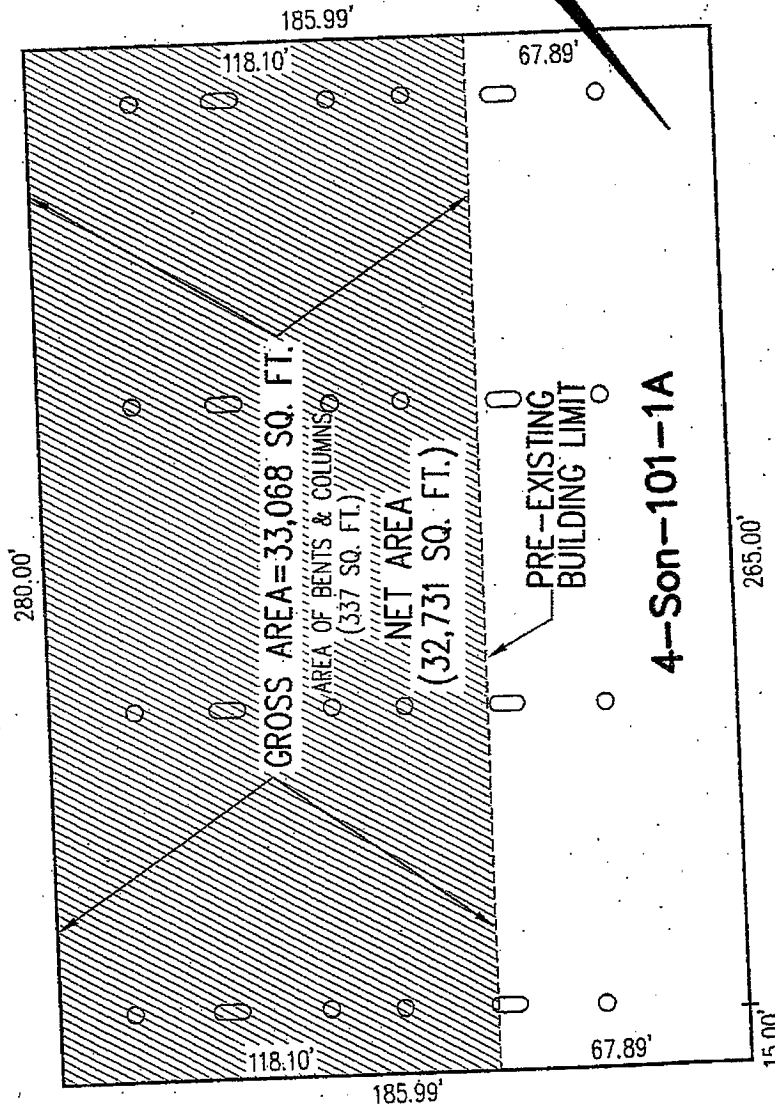
LEGEND

- EXISTING BENT (36.6 square feet)
- NEW COLUMN (15.9 square feet)
- SQ. FT. SQUARE FEET

SCALE: 1"=50'



4TH STREET



3RD STREET

WASHINGTON STREET

4-Son-101-1A

GROSS AREA=19,010 SQ. FT.
 AREA OF BENTS & COLUMNS
 (210 SQ. FT.)
 NET AREA
 (18,800 SQ. FT.)

GROSS AREA=33,068 SQ. FT.
 AREA OF BENTS & COLUMNS
 (337 SQ. FT.)
 NET AREA
 (32,731 SQ. FT.)

PRE-EXISTING
 BUILDING LIMIT

STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY DEPARTMENT OF TRANSPORTATION DISTRICT 4	
DRAWN BY: JZ	DATE: 9/3/09
CHECKED BY: JZ	SCALE: 1"=50'
CO. RTE. P.M.	DR. NO.
SON 101	20.2

SCALE IN FEET



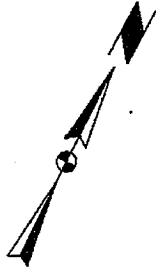
EXHIBIT "C"

1 of 2

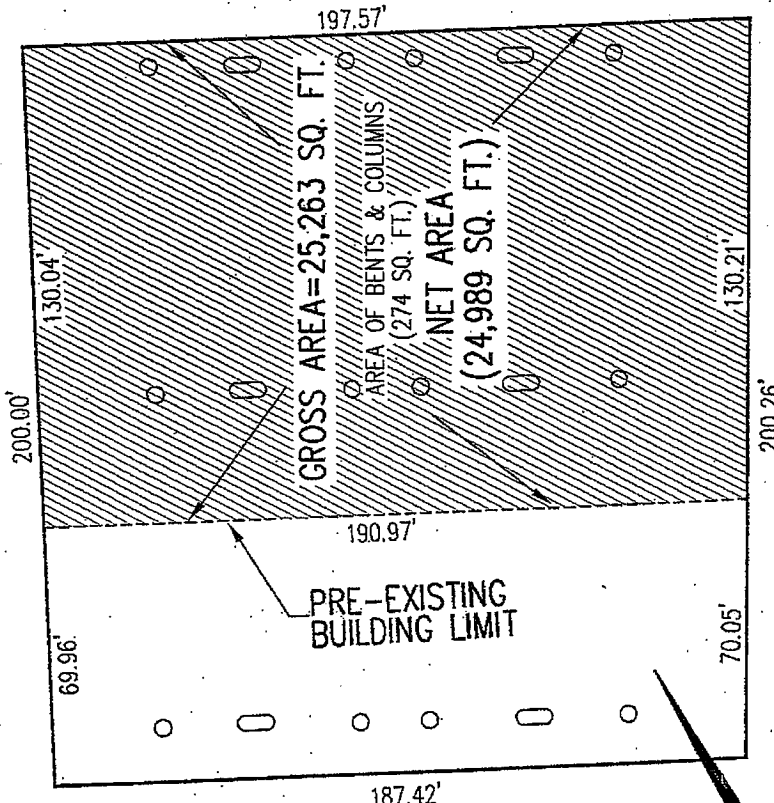
LEGEND

- EXISTING BENT (36.6 square feet)
- NEW COLUMN (15.9 square feet)
- SQ. FT. SQUARE FEET

SCALE: 1"=50'



5TH STREET



4TH STREET

4-Son-101-2A
 GROSS AREA=13,237 SQ. FT.
 AREA OF BENTS & COLUMNS (137 SQ. FT.)
 NET AREA (13,100 SQ. FT.)

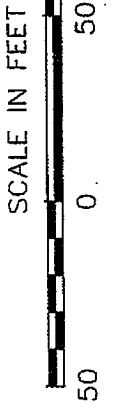


EXHIBIT "C"
 2 of 2

WASHINGTON STREET

STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY DEPARTMENT OF TRANSPORTATION DISTRICT 4			
DRAWN BY: JZ	DATE: 9/3/09		
CHECKED BY: JZ	SCALE: 1"=50'		
CO.	RTE.	P.M.	DR. NO.
SON 101	20.2		

EXHIBIT "D"

There is no "Exhibit D"