

LEASE

between

CALIFORNIA STATE UNIVERSITY,
Acting by and through
SAN FRANCISCO STATE UNIVERSITY,
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant

For the lease of a Radio Communication Site
1600 Holloway Avenue, Thornton Hall
San Francisco, California

June 23, 2021

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LIST OF EXHIBITS

- EXHIBIT A– Site Plan (Exterior)
- EXHIBIT B – Site Plan - Radio Site
- EXHIBIT C – Thornton Hall – Penthouse Rooftop Plan
- EXHIBIT D - HRC Waiver
- EXHIBIT E - Radio System Usage Agreement
- EXHIBIT F - City Equipment Frequencies List

LEASE

THIS LEASE (this "Lease"), dated for reference purposes only as of June 23, 2021, is by and between the CALIFORNIA STATE UNIVERSITY, acting by and through the SAN FRANCISCO STATE UNIVERSITY a State of California political subdivision ("University" or "Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Tenant").

RECITALS

A. The University and City executed a Lease Agreement dated as of March 11, 1998 ("1998 Lease") for City's lease of certain premises at 1600 Holloway Avenue in San Francisco, California for City's public safety and transportation radio system.

B. The term of the 1998 Lease expired on April 1, 2018, and City continued to lease such premises on a month to month basis on the terms of the 1998 Lease.

C. The University and City wish to enter into a new lease for such premises on the terms and conditions set forth in this Lease. Concurrently with the execution of this Lease, the University and City are executing a Radio System Usage Agreement, a draft copy dated as of May 3, 2021, is attached as **Exhibit E** (the "Use Agreement"), which facilitates the use of handheld radios by the University Police Department on the City's trunked public safety radio system.

AGREEMENT

The University and City hereby agree as follows:

1. BASIC LEASE INFORMATION

The following is a summary of basic lease information (the "Basic Lease Information"). Each item below shall be deemed to incorporate all of the terms in this Lease pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision shall control.

Lease Reference Date:	June 23, 2021
Landlord:	San Francisco State University
Tenant:	City and County of San Francisco
Real Property:	Real property commonly known as 1600 Holloway Avenue, San Francisco, California (Assessor's Block 7299, Lot 005) ("Real Property").
Building (<u>Section 2.1</u>):	Thornton Hall ("Building")
Premises (<u>Section 2.1</u>):	The "Premises" shall consist of the following: (a) Two hundred forty (240) square feet of space in Room 138 of the Building ("Room 138"); (b) Twenty-one square feet of space in the Building elevator penthouse ("Penthouse");

(c) space on the southern exterior of the Penthouse for three (3) whip antennas and one global positioning system antenna; (d) space on the northern exterior of the Penthouse for two (2) microwave dishes; (e) approximately one hundred eighty (180) square feet located on the Real Property for an emergency generator and air-conditioning fan units ("Generator Area"), all further depicted on the attached **Exhibit A (Site Plan)**, **Exhibit B (Radio Site)**, and **Exhibit C (Rooftop)**.

License Area (Section 2.3):

During the term of the Lease, City shall have a nonexclusive license to place and use wiring, fiber, panels, cables, lines, conduits, and similar connective items (collectively, the "City Wiring") through the Building and over the Real Property, as shown on the attached **Exhibits A and B** ("License Area").

Term (Section 3):

Twenty (20) years

Estimated commencement date: October 1, 2021

Expiration date: September 30, 2041

Base Rent (Section 4):

City shall pay the base rent of \$7,650 per month for a total of \$91,800 per year as described in Section 4.2 ("Base Rent"), which shall be adjusted annually as set forth in Section 4.3.

City's Equipment (Section 6):

The "City's Equipment" shall mean the equipment and improvements already or to be installed by or for City at the Premises, including, but not limited to, the equipment described in the attached **Exhibits A, B and C**, and the following: (a) two concrete pads in the Generator Area; (b) a diesel generator and fuel tank and two air conditioning fan units on said concrete pads and a security fence or enclosure around each concrete pad as generally shown on **Exhibit B**; (c) two split system air condition units in Room 138; (d) an overhead lighting system in Room 138; (e) equipment racks and cable with seismic bracing in Room 138; (f) radio and associated equipment in Room 138; (g) cabling and any conduit from Room 138 to the Penthouse; and (h) any related improvements.

Use (Section 5.1):

The installation, use, maintenance, repair, and operation of the City's Equipment, including the transmission and reception of radio

communication signals on various frequencies for public safety purposes (a "Public Communication System").

Utilities (Section 9.1):

The University shall provide electricity necessary for City's Equipment, backup emergency power and use of the Premises during the Term. City shall pay \$850 per month for electricity unless and until a sub-meter is installed and then shall pay actual cost; provided, however, that as long as the Use Agreement (or any agreement the parties execute to replace the Use Agreement) is in effect, City's obligation to pay for electricity is waived.

Services (Section 9.2):

The University to provide security and any additional services requested by City and approved by the University.

Notice Address of Landlord (Section 22.1):

San Francisco State University
Procurement and Support Services
1600 Holloway Avenue
San Francisco, CA 94132

Key Contact for Landlord:

Steven Chang, Associate Procurement Officer

Landlord Contact Telephone No.:

(415) 338-2547

Notice Address for Tenant (Section 22.1):

Department of Technology
1 South Van Ness Ave, 2nd floor
San Francisco, CA 94103
Re: SFSU Radio Site Lease

with a copy to:

Department of Emergency Management
1011 Turk
San Francisco, CA 94102
Re: SFSU Radio Site Lease

and to:

City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property
Re: SFSU Radio Site Lease

and to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attn: Special Projects Team
Deputy City Attorney
Re: SFSU Radio Site Lease

Key Contact for Tenant: Chris Chamberlain
Tenant Contact Telephone No.: (415) 603-9629
Alternate Contact for Tenant: System Watch
Alternate Contact Telephone No.: (415) 558-3884
Brokers (Section 22.8): None

2. PREMISES

2.1 Lease Premises

University leases to City and City leases from University, subject to the provisions of this Lease, the Premises. The Premises contain the rentable area specified in the Basic Lease Information. The Building, land upon which the Building and Generator Area are located and all other improvements on or appurtenances to such land are referred to collectively as the "Property."

2.2 Common Areas; License Area

During the Term and for the limited purposes and subject to the terms and conditions set forth in this Lease, City shall have the non-exclusive license in and over the License Area and common areas of the Real Property and the Building for access by City and its personnel, agents, and equipment to the Premises and the City Wiring. The University acknowledges that City intends to operate the City's Equipment for public safety and transportation purposes, and shall provide City with access to (i) the Premises twenty-four (24) hours per day, seven (7) days per week, and (ii) the City's Equipment and the City Wiring located on any other portion of the Property twenty-four (24) hours per day, seven (7) days per week during any power outages or required emergency maintenance affecting any portion of the Property.

The license granted to the City is for the sole purpose of constructing, installing, inspecting, maintaining, restoring, replacing and operating the City's Equipment and the City Wiring located on the Premises and accessing any necessary electrical and telecommunication conduits, in accordance with the use permitted under this Lease.

Landlord shall ensure that City has unobstructed access to the Property at all times. Notwithstanding anything to the contrary in the foregoing sentence, University may, after consultation with the City's Administrator, interrupt City's access to the Property in the event of an immediate threat of such portion of the Property being rendered unsafe for human occupancy. If City's use of any of the Premises or access to the Property is interrupted as a result of such portion of the Property being rendered unsafe for human occupancy due to University's failure to comply with its obligations under this Lease or for any other reason other than City's default hereunder, then University shall immediately undertake all necessary steps to correct such condition. In the event such condition continues for two (2) business days and impairs City's ability to carry on its operations at the Premises, any Base Rent payable hereunder, if any, shall

be abated based on the extent to which such default interferes with City's ability to carry on its operations at the Premises. If any such default by University shall continue for thirty (30) days or more after City's use is interrupted and impairs City's ability to carry on its operations at the Premises or the License Area, then City shall have the right, without limiting any of its other rights under this Lease to terminate this Lease, unless University supplies City with evidence reasonably satisfactory to City that City's normal and safe use will be restored within sixty (60) days of the date City's use was interrupted, and such use is actually restored within such 60-day period. Nothing in this Section shall limit City's rights with respect to any disruption due to casualty pursuant to Section 12 (Damage and Destruction) hereof.

2.3 Disability Access

California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements. City is hereby advised that the Premises have not been inspected by a CASp. The law does not require landlords to have the inspections performed, but the University may not prohibit City from obtaining a CASp inspection of the Premises for its occupancy or potential occupancy if requested by City. If City elects to obtain such inspection, City and the University shall mutually agree on the arrangements for the time and manner of such CASp inspection, the payment of the CASp inspection fee, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

3. TERM

3.1 Term of Lease

The Premises are leased for a term (the "Term") commencing on the date specified in the Basic Lease Information as the estimated commencement date (the "Estimated Commencement Date"), or such later date as the City's Mayor and Board of Supervisors shall have approved the transaction contemplated by this Lease in their respective sole and absolute discretion, as further provided in this Lease, and this Lease has been fully executed. The Term shall end on the date specified in the Basic Lease Information, or such earlier date on which this Lease terminates pursuant to the provisions of this Lease. If the Use Agreement is terminated during the Term, either party shall have the right to terminate this Lease by delivering written notice of such termination within thirty (30) days of the termination of the Use Agreement. If either party timely delivers such a Lease termination notice to the other party pursuant to the foregoing sentence, this Lease shall terminate thirty (30) days after the delivery of such Lease termination notice.

3.2 Commencement Date and Expiration Date

The dates on which the Term commences and terminates pursuant hereto are referred to respectively as the "Commencement Date" and the "Expiration Date."

3.3 Termination of 1998 Lease and Holdover Occupancy

The parties acknowledge the 1998 Lease terminated on April 1, 2018, and City's month to month lease of the Premises on the terms of the 1998 Lease shall terminate on the day immediately preceding the Commencement Date of this Lease. The University agrees no rent is owed by City for the 1998 Lease or City's month to month lease of the Premises.

4. RENT

4.1 Base Rent

Beginning on the Commencement Date or the first date the police antenna system described in the Use Agreement becomes operational, whichever occurs last, City shall pay to University during the Term the annual Base Rent specified in the Basic Lease Information as the same may be increased pursuant to Section 4.2 (Adjustments in Base Rent) (the "Base Rent"). The Base Rent shall be payable in equal consecutive monthly payments on or before the first day of each month, in advance, by good check to the San Francisco State University, Bursar's Office, 1600 Holloway Avenue, AD 155, San Francisco, CA 94132, or such other place as University may designate in writing. City shall pay the Base Rent without any prior demand and without any deduction or setoff. If the Commencement Date occurs on a day other than the first day of a calendar month, or the Expiration Date occurs on a day other than the last day of a calendar month, then the Base Rent for such fractional month shall be prorated based on a thirty (30)-day month.

4.2 Adjustments in Base Rent

On each anniversary of the Commencement Date (each, an "Adjustment Date"), the Base Rent payable under Section 4.2 for the following twelve-month period shall be adjusted to equal one hundred three percent (103%) of the Base Rent for the lease year preceding such Adjustment Date.

4.3 Late Charges

"Rent" shall mean any payment City is obligated to pay the University under this Lease. If City fails to pay any Rent within ten (10) days after the date the Rent is due and payable, such unpaid amounts will be subject to a late payment charge equal to an additional five percent (5%) of the unpaid amounts in each instance. The late payment charge has been agreed upon by University and City, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that will be incurred by University as a result of any such failure by City, the actual costs thereof being extremely difficult if not impossible to determine.

4.4 Compliance with City Business and Tax Regulations Code

The University acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to the University under this Lease is withheld, then City will not be in breach or default under this Lease, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph to the University, without interest, late fees, penalties, or other charges, upon the University coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

5. USE

City may use the Premises for the installation, use, maintenance, repair, restoration, replacement and operation of City's Equipment, including necessary electrical and telecommunication conduits, for the operation of a Public Communication System.

6. [Intentionally deleted]

7. ALTERATIONS

7.1 Alterations by City

City shall not make or permit any alterations, installations, additions or improvements (collectively, "Alterations") to the Premises or the License Area without first obtaining the University's written consent, which the University shall not unreasonably withhold or delay. City acknowledges and agrees that it would be reasonable for Landlord to withhold its approval to any proposed Alterations that would negatively affect the structural integrity of the Building. However, the (i) installation of furnishings, fixtures, equipment, or decorative improvements in the Premises, (ii) supplementation or replacement of the City Wiring with similar connective items, (iii) replacement of any of the items of the City's Equipment with updated items that essentially perform the same functions, and (iv) repainting of Room 138 shall not constitute Alterations requiring University's consent to the extent they do not negatively affect the Building Systems or structural integrity of the Building or increase the size of the License Area. Any Alterations permitted hereunder shall be made at City's cost in compliance with applicable laws. The University shall, without cost to itself, cooperate with City in securing building and other permits and authorizations needed in connection with any permitted Alterations. The University shall not be entitled to any construction or other administrative fee in connection with any Alteration. City shall not be required to remove any Alterations upon the expiration or sooner termination of this Lease unless the University notifies City in writing, at the time the University approves such Alterations, that they must be removed at the Expiration Date.

7.2 Title to Improvements

Except for City's Equipment and Personal Property (as defined in the next Section), all appurtenances, fixtures, improvements, equipment, additions and other property permanently installed in the Premises as of the Commencement Date or during the Term shall be and remain the University's property. City may not remove such property unless the University consents thereto.

7.3 City's Personal Property

All the City's Equipment and any other furniture, furnishings, equipment, trade fixtures and articles of movable personal property installed at the Premises by or for the account of City and that can be removed without structural damage to the Premises (collectively, "City's Personal Property") shall be and remain City's property. At any time during the Term or at the expiration thereof, City may remove any of City's Personal Property, provided City shall repair any damage to the Premises resulting therefrom. Upon the expiration or earlier termination of this Lease, City shall have the right to remove or leave City's Personal Property from the Premises in accordance with Section 20 (Surrender of Premises), below. University acknowledges that some of City's Personal Property may be financed by an equipment lease financing otherwise subjected to a security interest, or owned by an equipment company and leased to City. University, upon City's reasonable request, shall execute and deliver any document required by any supplier, lessor, or lender in connection with the installation in the Premises of any items of City's Personal Property, pursuant to which the University waives any rights it may have or acquire with respect to City's Personal Property, so long as the supplier, equipment lessor or lender agrees that it (i) will remove such City's Personal Property from the Premises within thirty (30) days after the Expiration Date (but if it does not remove City's Personal Property within such time it shall have waived any rights it may have had to City's Personal Property), and (ii) will repair any damage caused by the removal of City's Personal Property. University shall recognize the rights of any supplier, lessor or lender who has an

interest in any items of City's Personal Property to enter the Premises and remove such property at any time during the Term or within thirty (30) days after the Expiration Date.

7.4 Alteration by Landlord

University shall use its best efforts to minimize interference with or disruption to City's use and occupancy of the Premises and City's use of the License Area pursuant to this Lease during any alterations, installations, additions or improvements to the Building or the remainder of the Property, including without limitation any leasehold improvement work for other tenants in the Building or the remainder of the Property. University shall promptly remedy any such interference or disruption upon receiving City's notice thereof.

8. REPAIRS AND MAINTENANCE

8.1 Landlord's Maintenance and Repairs

Under the 1998 Lease, the University installed (i) a 208 VAC, 300 Amp, 3 Phase commercial power supply that supplies power to Room 138, including a transformer, circuit breaker, electrical panel and electrical outlets for City's Equipment and (ii) a conduit path from City's generator pads in the Generator Area to the City's automatic transfer switch in Room 138 (collectively, the "Supporting Equipment"). The University shall repair and maintain the Supporting Equipment, at its sole cost, in top operating condition and in accordance with applicable laws throughout the Term.

The University shall further repair and maintain the Property at its sole cost and in top operating condition, including, but not limited to, the Building (including without limitation the exterior, interior and structural portions of the Building, the roof, foundation, bearing and exterior walls and subflooring, interior walls), and the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security and other mechanical, electrical and communications systems of the Building (collectively, the "Building Systems"), the Common Areas, drainage, and exterior lighting, in accordance with applicable laws. Without limiting the foregoing, the University shall maintain all parts of the Building in a clean, safe and attractive manner, shall provide exterior graffiti removal with reasonable frequency, and shall not permit any other tenants or occupants of the Building to disturb or interfere with City's use of the Premises or the License Area or permit to be done in or about the Property anything that is illegal, is dangerous to persons or property or constitutes a nuisance.

The University shall have no obligation to repair or restore the Building or any portion of the Building utilized by the City or needed for City's use of the Premises or License Area damaged or destroyed by acts of God or casualties, such as earthquakes, storms, fires and flood. However, in the event the Premises or License Area are unusable, or the University elects to repair or rebuild but such damage cannot be repaired or rebuilt within ninety (90) days of such an occurrence, the University shall allow City to relocate the City's Equipment to another location on the Real Property acceptable to both parties.

8.2 City's Maintenance and Repairs

Subject to the University's obligations under Section 8.1 (Landlord's Maintenance and Repairs) and warranty under Section 10.1 (Premises Condition), City shall repair and maintain at its cost the interior of the Premises and keep the Premises, City's Equipment, and the City Wiring in good working order and a safe and sanitary condition, except for ordinary wear and tear and damage by casualty. City shall make any such required repairs and replacements that University specifies in writing (i) at City's cost, (ii) by contractors or mechanics selected by City and reasonably approved by the University, (iii) so that same shall be at least substantially equal in quality, value and utility to the original work or installation prior to damage thereof, (iv) in a

manner and using equipment and materials that will not materially interfere with or impair the operations, use or occupation of the Building or the Building Systems, and (v) in compliance with all applicable Laws, including, without limitation, any applicable contracting requirements under City's Charter and Administrative Code. At all times during the Term, the University shall, upon reasonable notice by City, afford City and its Agents with access to those portions of the Property and Building that are necessary to maintain or repair the City's Equipment or the City Wiring.

If City's repair, supplementation or replacement of any the City's Equipment reasonably requires the temporary shutdown and transfer of any existing radio broadcast antenna on the Premises to a temporary tower, the University shall cause the owner and/or user of such antenna to perform and coordinate such temporary shutdown and transfer at its cost.

8.3 Liens

City shall keep the Property free from liens arising out of any work performed, material furnished or obligations incurred by City pursuant to this Lease during the Term. The University shall have the right to post on the Property any notices permitted or required by law or that are needed for the protection of Landlord, the Premises or any remaining portion of the Property, from mechanics' and material suppliers' liens. City shall give the University at least ten (10) days' prior written notice of commencement of any repair or construction by City on the Property.

9. UTILITIES, SERVICES AND TAXES

9.1 Utilities

The University shall provide electricity necessary for City's Equipment, backup generator, and use of the Premises at all times (24/7) during the Term. The City shall be responsible for the actual cost of its electricity use. The parties understand that University cannot determine City's actual electricity use nor its actual cost because there is no sub-meter. Either party may, at their sole expense, or upon any negotiated agreement regarding same, install a separate sub-meter of City's electrical use. Unless and until a sub-meter is installed, the parties agree that City shall pay \$850 per month, \$10,200 per year, for electricity.

Notwithstanding anything to the contrary in the foregoing paragraph, in consideration of and as long as the Use Agreement (or any agreement the parties execute to replace the Use Agreement) is in effect, City's obligation to pay for electricity is waived.

9.2 Services

(a) The University shall provide security, if any, at its sole cost, for the Property. The University shall have no liability to City if the University fails to provide security.

(b) City reserves the right to request that the University, at City's cost, perform lease related services or incur additional expenses not covered under this Lease that the City may require from time to time, as requested by City's Department of Technology or Real Estate Division. If the University agrees to perform such services, which agreement shall not be unreasonably withheld or delayed, City shall reimburse the University for such expenses, at rates agreed-upon in writing and in advance. The University shall deliver an invoice, with reasonable backup documentation, of the costs incurred by the University for the additional services or expenses, and City shall deliver payment of such amount at the next monthly payment of Base Rent. If City is not obligated to pay Base Rent at the time of such performance of services, City shall deliver payment of the amount within thirty (30) days of receiving the applicable invoice and backup documentation from the University. The University acknowledges to provide any

such services in compliance with the requirements of Section 22.24, Section 22.26, and Section 22.35, if applicable.

9.3 Conservation

The University may establish reasonable measures to conserve energy and water, including automatic light shut off after hours and efficient lighting forms, so long as these measures do not unreasonably interfere with City's use of the Premises or License Area or City's operation of City's Equipment.

9.4 Disruption in Essential Utilities or Services

In the event of any failure, stoppage or interruption of any utilities or services to be furnished by the University hereunder, the University shall immediately notify City of such failure, stoppage or interruption, diligently attempt to restore service as promptly as possible and shall keep City apprised of its efforts. In the event the University is unable to supply any of the Building's electrical, HVAC, security, and alarm essential services serving the Premises (collectively, "Essential Services") and such inability of University impairs City's ability to carry on its operations at the Premises for a period of one (1) or more business days if such failure is in the reasonable control of University or a period of five (5) or more consecutive business days if such failure is not within the reasonable control of University, then the Base Rent, if any, shall be abated based on the extent such inability of University impairs City's ability to carry on its operations at the Premises, or, alternatively at City's election, City shall have the option to provide such services and offset the reasonable cost thereof against any Base Rent next due under this Lease. Such abatement, or right to provide the services and offset against any Base Rent, shall continue until the Essential Services have been restored so that the lack of any remaining services no longer materially impairs City's ability to carry on its operations at the Premises. The University shall use its best efforts to restore disrupted Essential Services as soon as possible. However, if such failure to provide any Essential Services continues for any reason for thirty (30) days and such failure interferes with City's ability to carry on its operations at the Premises, then City may, without limiting any of its other rights or remedies hereunder or at law or in equity, terminate this Lease upon written notice to the University, unless the University supplies City with evidence reasonably satisfactory to City that the Essential Services will be restored within sixty (60) days of the date City's use was interrupted, and the Essential Services are actually restored within such 60-day period. City shall not be entitled to any abatement of Base Rent, if any, or right to terminate if the University's inability to supply Essential Services to City is due solely to the acts, omissions or negligence of City and its Agents.

9.5 Taxes

The University shall pay, at its sole cost, all taxes, assessments and charges levied upon or with respect to any portion of the Property, including, without limitation, all general real property taxes and general and special assessments, charges, fees, or assessments for transit, housing, police, fire, or other governmental services thereof, service payments in lieu of taxes that are now or hereafter levied or assessed against Landlord by the United States of America, the State of California or any political subdivision thereof, public corporation, district, or any other political or public entity, and any other tax, fee or other excise, however described, that may be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other real property taxes.

10. COMPLIANCE WITH LAWS; PREMISES CONDITION

10.1 Premises Condition

The University represents and warrants to City, and covenants with City, as follows: (a) it has good and marketable title to the Property; and (b) the Building is not an unreinforced masonry building.

10.2 City's Compliance with Laws; Indemnity

City shall use the Premises during the Term in compliance with applicable Laws, except that City shall not be required to make any structural alterations, additions or other modifications in order to comply therewith unless such modifications are necessary solely because of any Alterations to the Premises made by City pursuant to Section 7 hereof and such modifications are not otherwise the University's responsibility under this Lease. City shall be responsible for complying with any requirement of the Disabilities Laws. Without limiting Section 15.1 (City's Indemnity), City shall Indemnify the University against any and all Claims arising out of City's failure to comply with all applicable Laws as provided in this Section.

10.3 City's Compliance with Insurance Requirements

City shall not conduct any use in or about the Premises or License Area that would: (a) invalidate or be in conflict with any fire or other casualty insurance policies covering the Building or any property located therein, (b) result in a refusal by fire insurance companies of good standing to insure the Building or any such property in amounts reasonably satisfactory to the University or the holder of any mortgage or deed of trust encumbering the Building, (c) cause an increase in the fire insurance premium for the Building unless City agrees to pay such increase, or (d) subject the University to any liability or responsibility for injury to any person or property by reason solely of any operation being conducted by City at the Premises or the License Area; provided, however, the University shall provide City with reasonable prior written notice of any applicable insurance requirements and no such insurance requirements shall materially and adversely interfere with City's normal operations at the Premises.

11. DAMAGE AND DESTRUCTION

Subject to Section 8.1, if the Premises, the Building, any Building Systems, or the License Area are damaged by fire or other casualty, the University may but is not required to make repairs or restore the License Area, the Building or any portion of the Building utilized by the City. Should the University make repairs, it shall make repairs or restore the License Area or Building without delay, provided that such repairs can be made under applicable laws within sixty (60) days after the University obtains all necessary permits for such repairs (the "Repair Period"). In such event, this Lease shall remain in full force and effect, except that City shall be entitled to an abatement of Base Rent, if any, while such repairs are being made. Such abatement in Base Rent shall be based upon the extent to which such damage and the making of such repairs interfere with City's operations at the Premises. The University's repairs shall not include, and Base Rent shall not be abated as a result of, any damage by fire or other cause to City's Personal Property or any damage caused by the negligence or willful misconduct of City or its Agents.

Within twenty (20) days after the date of such damage, the University shall notify City whether or not, in the University's reasonable judgment made in good faith, such repairs can be made within the Repair Period. If such repairs cannot be made within the Repair Period, then either party hereto may, by written notice to the other given within thirty (30) days after the date of such damage, terminate this Lease as of the date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after notice is given by the University. In

case of termination, the Base Rent, if any, shall be reduced by a proportionate amount based upon the extent to which such damage interferes with the conduct of City's operations at the Premises, and City shall pay such reduced Base Rent up to the date of termination. The University shall refund to City any Base Rent previously paid for any period of time subsequent to such date of termination.

If at any time during the last six (6) months of the Term of this Lease there is substantial damage that the University would be required to repair hereunder, Landlord or City may, at the respective option of each, terminate this Lease as of the date such damage occurred by giving written notice to the other party of its election to do so within thirty (30) days after the date of such damage; provided, however, the University may terminate this Lease only if it would take more than thirty (30) days to repair such damage.

The parties intend that the provisions of this Section govern fully their rights and obligations in the event of damage or destruction, and the University and City each hereby waives and releases any right to terminate this Lease in whole or in part under Section 1932, subdivision 2, Section 1933, subdivision 4, and Sections 1941 and 1942 of the Civil Code of California or under any similar law, statute or ordinance now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

12. EMINENT DOMAIN

12.1 Definitions

(a) "Taking" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under law. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

(b) "Date of Taking" means the earlier of (i) the date upon which title to the portion of the Property taken passes to and vests in the condemnor or (ii) the date on which Tenant is dispossessed.

(c) "Award" means all compensation, sums or anything of value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

12.2 General

If during the Term or during the period between the execution of this Lease and the Commencement Date, there is any Taking of all or any part of the Premises or any interest in this Lease, the rights and obligations of the parties hereunder shall be determined pursuant to this Section. City and Landlord intend that the provisions hereof govern fully in the event of a Taking and accordingly, the parties each hereby waive any right to terminate this Lease in whole or in part under Sections 1265.110, 1265.120, 1265.130 and 1265.140 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

12.3 Total Taking; Automatic Termination

If there is a total Taking of the Premises, then this Lease shall terminate as of the Date of Taking.

12.4 Partial Taking; Election to Terminate

(a) If there is a Taking of any portion (but less than all) of the Premises, then this Lease shall terminate in its entirety if all of the following exist: (i) the partial Taking, in City's reasonable judgment, renders the remaining portion of the Premises untenable or unsuitable for continued use by City for its intended purposes or otherwise materially adversely affects City's normal operations in the Premises, (ii) the condition rendering the Premises untenable or unsuitable either is not curable or is curable but Landlord is unwilling or unable to cure such condition, and (iii) City elects to terminate.

(b) In the case of a partial taking of a substantial portion of the Building, and if subsection (a) above does not apply, City and Landlord shall each have the right to terminate this Lease by written notice to the other within thirty (30) days after the Date of Taking, provided that, as a condition to City's right to terminate, the portion of the Building taken shall, in City's reasonable judgment, render the Premises unsuitable for continued use by City for its intended purposes or otherwise materially adversely affect City's normal operations in the Premises.

(c) Either party electing to terminate under the provisions of this Section 12.4 shall do so by giving written notice to the other party before or within thirty (30) days after the Date of Taking, and thereafter this Lease shall terminate upon the later of the thirtieth (30th) day after such written notice is given or the Date of Taking.

12.5 Termination of Lease; Rent and Award

Upon termination of this Lease in its entirety pursuant to Section 12.3, or pursuant to an election under Section 12.4 above, then: (a) any City obligation to pay Base Rent shall continue up until the date of termination and thereafter shall cease, and (b) Landlord shall be entitled to the entire Award in connection therewith, except that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's operations or damage to City's Personal Property.

12.6 Partial Taking; Continuation of Lease

If there is a partial Taking of the Premises under circumstances where this Lease is not terminated in its entirety under Section 12.4 above, then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the parties shall be as follows: (a) Base Rent shall be reduced by an amount that is in the same ratio to the Base Rent as the area of the Premises taken bears to the area of the Premises prior to the Date of Taking, and (b) Landlord shall be entitled to the entire Award in connection therewith, provided that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's operations or damage to City's Personal Property.

12.7 Temporary Taking

Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to the Premises for a limited period of time not in excess of sixty (60) consecutive days, this Lease shall remain unaffected thereby, and City shall continue to pay any Base Rent otherwise owed and to perform all of the terms, conditions and covenants of this Lease. In the event of such temporary Taking, City shall be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Premises during the Term up to any Base Rent owing by City for the period of the Taking.

13. ASSIGNMENT AND SUBLETTING

Except as provided in this Section below, City shall not directly or indirectly sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its leasehold estate hereunder or permit all or any portion of the Premises to be occupied by anyone other than itself or sublet all or any portion of the Premises, without the University's prior written consent in each instance, which shall not be unreasonably withheld or delayed. City shall have the right from time to time, upon notice to but without the consent of the University, to transfer use and occupancy of all or any of the Premises or License Area to any department, commission, or agency of the City and County of San Francisco for uses permitted under this Lease.

If City assigns its interest in this Lease or subleases any portion of the Premises, the rent or other consideration realized by City under such assignment or sublease in excess of the Base Rent payable for the period of such assignment or sublease (or the amount thereof proportionate to the portion of the Premises subject to such sublease or assignment) shall be "Excess Rent." City shall deliver monthly statements of the Excess Rent, if any, it receives for such assignment or sublease and shall pay Landlord fifty percent (50%) of any such Excess Rent after City recovers any expenses and the reasonable cost of any improvements that City incurs in connection with the sublease or assignment. Payment of the University's share of any Excess Rent delivered to City pursuant to a sublease or assignment shall be made on a monthly basis and delivered to the University on the date any Base Rent is due for such month.

14. DEFAULT; REMEDIES

14.1 Events of Default by City

Any of the following shall constitute an event of default by City hereunder:

(a) City's failure to make any timely payment of Base Rent and to cure such nonpayment within five (5) business days after receipt of written notice thereof from the University, provided that for the first two (2) monthly payments of Base Rent following the Commencement Date and for the first monthly payment of Base Rent after the beginning of each new fiscal year for City or any Adjustment Date, City shall have twenty (20) days to cure any such nonpayment after written notice thereof from the University;

(b) City's abandons the Premises (within the meaning of California Civil Code Section 1951.3); or

(c) City's failure to perform any other covenant or obligation of City hereunder (not involving the payment of money) and to cure such non-performance within thirty (30) days of the date of receipt of notice thereof from the University, provided that if more than thirty (30) days are reasonably required for such cure, no event of default shall occur if City commences such cure within such period and diligently prosecutes such cure to completion.

14.2 Landlord's Remedies

Upon the occurrence of any event of default by City that is not cured within the applicable grace period as provided above, the University shall have all rights and remedies available pursuant to law or granted hereunder, including the following:

(a) The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate City's right to possession of the Premises and to recover the worth at the time of award of the amount

by which any unpaid Base Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that City proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2.

(b) The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), which allows the University to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Base Rent as it becomes due, for so long as the University does not terminate City's right to possession, if City has the right to sublet or assign, subject only to reasonable limitations.

14.3 Landlord's Default

If the University fails to perform any of its obligations under this Lease, then (without limiting any of City's other cure rights under this Lease) City may, at its sole option, cure such default at the University's expense if such default continues after ten (10) days from the date City gives notice to the University of City's intention to perform such cure. However, in the case of a default which for causes beyond the University's control (excluding any financial inability to perform) cannot with due diligence be cured within such ten (10)-day period, such ten (10)-day period shall be extended if the University, promptly upon receipt of City's notice, advises City of the University's intention to take all steps required to cure such default, and the University promptly commences such cure and diligently prosecutes the same to completion. Subject to the other provisions of this Lease relating to abatement of Base Rent, if the University fails to cure any default within the cure period provided above, then, whether or not City elects to cure the University's default as provided herein, the Base Rent and any other charges hereunder shall be abated based on the extent to which such default interferes with City's ability to carry on its operations at the Premises. Notwithstanding the foregoing, if any such default by the University continues for sixty (60) days and impairs City's ability to carry on its operations at the Premises, then City shall have the right to terminate this Lease upon written notice to the University within thirty (30) days after the expiration of such sixty (60)-day period. City's rights hereunder and Section 2.2 (Common Areas; License Area), and Section 9.4 (Disruption in Essential Services), shall not limit in any way any of its other rights and remedies hereunder or at law or in equity.

15. INDEMNITIES

15.1 City's Indemnity

City shall indemnify, defend and hold harmless ("Indemnify") the University and its Agents (as defined in Section 22.5) from and against any and all claims, costs and expenses, including without limitation, reasonable attorneys' fees (collectively "Claims"), incurred as a result of (a) City's use of the Premises or the License Area, (b) any default by City in the performance of any of its material obligations under this Lease, or (c) any negligent acts or omissions of City or its Agents in, on or about the Premises or the Property; provided, however, City shall not be obligated to Indemnify the University or its Agents to the extent any Claim arises out of the active negligence or willful misconduct of the University or its Agents. In any action or proceeding brought against the University or its Agents by reason of any Claim Indemnified by City hereunder, City may, at its sole option, elect to defend such Claim by attorneys in City's Office of the City Attorney, by other attorneys selected by City, or both. City shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that the University shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. City's obligations under this Section shall survive the termination of the Lease.

15.2 Landlord's Indemnity

The University shall Indemnify City and its Agents against any and all Claims incurred as a result of (a) any default by the University in the performance of any of its obligations under this Lease or any breach of any representations or warranties made by the University under this Lease, (b) any failure of the Supporting Equipment in providing electricity to the Real Property during a power outage, or from any power surges caused by the operation of the Supporting Equipment during a power outage, or (c) any negligent acts or omissions of the University or its Agents in, on or about the Premises or the Property; provided, however, the University shall not be obligated to Indemnify City or its Agents to the extent any Claim arises out of the active negligence or willful misconduct of City or its Agents. In any action or proceeding brought against City or its Agents by reason of any Claim Indemnified by the University hereunder, the University may, at its sole option, elect to defend such Claim by attorneys selected by the University. The University shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that City shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. The University's obligations under this Section shall survive the termination of this Lease.

16. INSURANCE

16.1 City's Self-Insurance

The University acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any insurance with respect to this Lease. City assumes the risk of damage to City's Equipment, the City Wiring, and any of City's Personal Property, except for damage caused solely by the University or its Agents.

16.2 Landlord's Insurance

At all times during the Term, the University shall keep the Building and the Property insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage and other perils customarily covered under a cause of loss-special form property insurance policy in an amount equal to one hundred percent (100%) of the full insurance replacement value (replacement cost new, including, debris removal and demolition) thereof. The University shall, upon request by City, provide to City evidence of the insurance required above. Notwithstanding anything to the contrary contained herein, the University hereby waives any right of recovery against City for any loss or damage sustained by the University with respect to the Building, the Premises, or the Real Property, or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of City, to the extent such loss or damage is covered by insurance which the University has or is required to purchase under this Lease or is otherwise actually recovered from valid and collectible insurance covering the University.

17. ACCESS BY LANDLORD

The University reserves for itself and any designated Agent the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event the University shall give any reasonable notice), after giving City at least twenty four (24) hours' advance written or oral notice, for the purpose of (a) inspecting the Premises, (b) supplying any service to be provided by the University hereunder, (c) showing the Premises to any prospective purchasers, mortgagees or, during the last six (6) months of the Term of this Lease, tenants, (d) posting notices of non-responsibility, and (e) altering, improving or repairing the Premises and any portion of the Building, and the University may for that purpose erect, use and maintain necessary structures in and through the Premises where reasonably required by the character of

the work to be performed, provided that the entrance to the Premises shall not be blocked thereby, and further provided that City's use shall not be interfered with.

18. ESTOPPEL CERTIFICATES

Either party, from time to time during the Term upon not less than ten (10) days' prior written notice from the other party, may reasonably request the other party to execute, acknowledge and deliver to such persons or entities designated by such other party a certificate stating: **(a)** the Commencement Date and Expiration Date of this Lease, **(b)** that this Lease is unmodified and in full force and effect (or, if there have been modifications, this the Lease is in full force and effect as modified and stating the modifications), **(c)** that there are no defaults under this Lease (or if so, specifying the same), and **(d)** the date to which Base Rent has been paid.

19. SURRENDER OF PREMISES

Upon the expiration or sooner termination of this Lease, City shall surrender the Premises to the University in good order and condition, reasonable use and wear and damage by fire or other casualty excepted. Within thirty (30) days after the Expiration Date or earlier termination of this Lease, City shall remove from the Property all of City's Personal Property, the City's Equipment and any Alterations City desires or is required to remove from the Premises pursuant to the provisions of Section 7.1 (Alterations by City), above. City may remove City wiring at its sole discretion. City shall repair or pay the cost of repairing any damage to the Premises or the Building resulting from such removal. Notwithstanding anything to the contrary in this Lease, City shall not be required to demolish or remove from the Premises any of the Supporting Equipment or to remove any or all of City's Personal Property. City's obligations under this Section shall survive the expiration or earlier termination of this Lease.

20. HAZARDOUS MATERIALS

20.1 Definitions

As used in this Lease, the following terms shall have the meanings hereinafter set forth:

(a) "Environmental Laws" shall mean any federal, state, local or administrative law, rule, regulation, order or requirement relating to industrial hygiene, environmental conditions or Hazardous Material, whether now in effect or hereafter adopted.

(b) "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended (42 U.S.C. Section 9601 et seq.), or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Building or are naturally occurring substances on or about the Property; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

(c) "Release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Building, or in, on, under or about the Property.

20.2 Landlord's Representations and Covenants

Landlord represents and warrants to City that, to the best of Landlord's knowledge but without the obligation to investigate, the following statements are true and correct and will be true and correct as of the Commencement Date: **(a)** the Property is not in violation of any Environmental Laws; and **(b)** the Property is not subject to any claim by any governmental regulatory agency or third party related to the Release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board).

20.3 Landlord's Environmental Indemnity

Without limiting the University's Indemnity in Section 15.2 (Landlord's Indemnity), above, the University shall Indemnify City and its Agents against any and all Claims arising during or after the Term of this Lease **(a)** as a result of any breach of any of the University's representations, warranties or covenants in the preceding Section, or **(b)** in connection with any presence or Release of Hazardous Material in the Building or on, under or about the Property, unless City or its Agents caused such Release.

20.4 City's Covenants

Except as otherwise set forth in this Section, neither City nor its Agents shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Real Property, or transported to or from the Premises or the Real Property, in violation of any Environmental Laws, provided that City may use such substances in such limited amounts as are customarily used for the operation of equipment similar to the City's Equipment, so long as such use is in compliance with all applicable Environmental Laws.

20.5 City's Environmental Indemnity

If City breaches its obligations contained in the preceding Section 20.4, or if City or its Agents cause the Release of Hazardous Material from, in, on or about the Premises or the Property, then City shall Indemnify the University against any and all Claims arising during or after the Term of this Lease as a result of such Release, except to the extent the University or its Agents is responsible for the Release. The foregoing Indemnity shall not include any Claims resulting from the non-negligent aggravation by City, its Agents or Invitees of physical conditions of the Premises, or other parts of the Property, existing prior to City's occupancy.

21. INTERFERENCE

Neither party shall install or use any equipment at the Property, and the University shall not allow any third party to use the Property or install or use any equipment at the Property, at any time between the full execution of this Lease and the expiration or earlier termination of the Term, that would interfere with the City's existing or future Radio Communication System or the University's existing communication equipment in or on the Building. The University's obligations under the foregoing sentence includes preventing any modification to any use or equipment of a tenant or licensee at the Property existing prior to the execution of this Lease, if such modification would materially adversely interfere with City's operation of the City's Equipment for a Radio Communication System. In the event of such interference, the party that installed the equipment causing the interference or allowed its installation shall take, at its sole cost and expense, all steps necessary to correct and eliminate such interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference (over forty-eight hours) may cause irreparable injury and, therefore, either party shall have the right to bring action to enjoin such interference or to terminate this Lease immediately upon notice, at their election.

Any future grant of use of the Property by the University to a third party that permits the installation of equipment or operations at the Property shall be conditioned upon such party not causing any interference which impairs City's ability to utilize the Premises, the License Area, and City's Equipment for their intended purposes. The frequencies that the City's Equipment will use are listed on the attached **Exhibit F**.

22. GENERAL PROVISIONS

22.1 Notices

Except as otherwise specifically provided in this Lease, any notice given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: **(a)** City at Tenant's address set forth in the Basic Lease Information; or **(b)** Landlord at Landlord's address set forth in the Basic Lease Information; or **(c)** such other address as either the University or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received two (2) days after the date when it is mailed if sent by first-class, certified mail, one day after the date when it is mailed if sent by Express Mail, or upon the date personal delivery is made.

22.2 No Implied Waiver

No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No acceptance of full or partial Base Rent by the University while City is in default hereunder shall constitute a waiver of such default by the University. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of the University or City given in one instance under the terms of this Lease shall not relieve the other party of any obligation to secure the consent to any other or future instance under the terms of the Lease.

22.3 Amendments

Neither this Lease nor any terms or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Whenever this Lease requires or permits the giving by City of its consent or approval, the Director of Property, or his or her designee, shall be authorized to provide such approval, except as otherwise provided by applicable law, including the Charter of the City and County of San Francisco. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, shall be subject to the mutual written agreement of City and the University, and City's agreement may be made upon the sole approval of the Director of Property, or his or her designee; provided, however, material amendments or modifications to this Lease **(a)** changing the legal description of the Premises, **(b)** increasing the Term, **(c)** increasing the Base Rent, **(d)** changing the general use of the Premises from the use authorized under Section 5 of this Lease, and **(e)** any other amendment or modification which materially increases City's liabilities or financial obligations under this Lease shall additionally require the approval of City's Board of Supervisors.

22.4 Authority

The University represents and warrants to City that the execution and delivery of this Lease by the University has been duly authorized and does not violate any provision of any agreement, law or regulation to which the University or the Property is subject.

22.5 Parties and Their Agents; Approvals

If applicable, the word "Landlord" as used in this Lease shall include the plural as well as the singular. As used in this Lease, the term "Agents" when used with respect to either party shall include the agents, employees, officers and contractors of such party, and the term "Invitees" when used with respect to City shall include the clients, customers, invitees, guests, licensees, assignees or subtenants of City. All approvals, consents or other determinations permitted or required by City under this Lease, including but not limited to the exercise of any option granted to City, shall be made by or through City's Director of Property unless otherwise provided in this Lease, subject to any applicable limitations in the City's Charter.

22.6 Interpretation of Lease

The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intent and purposes of the parties, without any presumption against the party responsible for drafting any part of this Lease. Except as otherwise specifically provided herein, wherever in this Lease the University or City is required or requested to give its consent or approval to any matter or action by the other, such consent or approval shall not be unreasonably withheld or delayed and the reasons for disapproval of consent shall be stated in reasonable detail in writing. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Lease, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

22.7 Successors and Assigns

Subject to the provisions of Section 13 relating to assignment and subletting, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of the University and City and, except as otherwise provided herein, their personal representatives and successors and assigns. There are no third-party beneficiaries to this Lease.

22.8 Brokers

Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein, except for the broker, if any, identified in the Basic Lease Information, whose commission, if any is due, shall be the sole responsibility of the University pursuant to a separate written agreement between the University and such broker, and City shall have no liability therefor. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Claims incurred by the indemnified party in

defending against the same. The provisions of this Section shall survive any termination of this Lease.

22.9 Severability

If any provision of this Lease or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the full extent permitted by law, except to the extent that enforcement of this Lease without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Lease.

22.10 Governing Law

This Lease shall be construed and enforced in accordance with the laws of the State of California and the City's Charter.

22.11 Entire Agreement

The parties intend that this Lease (including all of the attached exhibits, which are made a part of this Lease) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease.

22.12 Attorneys' Fees

In the event that either the University or City fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For purposes of this Lease, reasonable attorneys' fees of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

22.13 Holding Over

Should City hold over in possession of the Premises after the expiration of the Term with the University's consent, such holding over shall not be deemed to extend the Term or renew this Lease, but such tenancy thereafter shall continue as a month-to-month tenancy. Such tenancy shall be on all the terms and conditions set forth in this Lease and at the monthly Base Rent in

effect during the last month of the Term of this Lease or such other rental as the University and City may mutually agree in writing as a condition to the University's consent to such holding over, and City shall continue as a month-to-month tenant until the tenancy shall be terminated by the University giving City or City giving The University at least thirty (30) days' prior written notice of termination. Should City hold over without the University's consent, the rent payable by City during the period of such holding over shall be one hundred ten percent (110%) of any monthly Base Rent in effect during the last month of the Term of this Lease, and such tenancy shall otherwise be on the terms and conditions contained herein.

22.14 Cumulative Remedies

All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

22.15 Time of Essence

Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

22.16 Survival of Indemnities

Termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination hereof. Each party hereto specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the indemnitor by the indemnitee and continues at all times thereafter.

22.17 Signs

City may erect or post signs on or about the Premises and the License Area subject to the University's prior approval. The University reserves the right to review the placement, design, and plan for any such sign prior to its erection or posting and agrees that the approval thereof shall not be unreasonably withheld or delayed.

22.18 Quiet Enjoyment and Title

The University covenants and represents that it has full right, power and authority to grant the leasehold estate hereunder, and covenants that City, upon paying the Base Rent hereunder and performing the covenants hereof, shall peaceably and quietly have, hold and enjoy the Premises and all appurtenances during the full Term of this Lease as against all persons or entities claiming by and through the University or on account of any action, inaction or agreement of the University or its Agents. Without limiting the provisions of Section 15.2 (Landlord's Indemnity), the University agrees to Indemnify City and its Agents against Claims arising out of any assertion that would interfere with City's right to quiet enjoyment as provided in this Section.

22.19 Bankruptcy

The University represents and warrants to City that the University has neither filed nor been the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of

debtors, and, to the best of the University's knowledge, no such filing is threatened. The University and City agree that City's leasehold estate created hereby includes, without limitation, all rights to receive and enjoy all services, facilities and amenities of the Premises and the Building as provided herein, and that if any of such services, facilities or amenities are terminated, or materially limited or restricted on account of any such case or proceeding, or for any other reason, City shall have the right to (a) contract directly with any third-party provider of such services, facilities or amenities to obtain the same, and (b) offset against the Base Rent or other charges payable hereunder any and all reasonable costs and expenses incurred by City in obtaining such services, facilities or amenities.

22.20 Transfer of Landlord's Interest

Landlord shall have the right to transfer its interest in the Property, the Building or this Lease to any other financially responsible person or entity. In the event of any such transfer, Landlord shall be relieved, upon notice to City of the name and address of Landlord's successor, of any obligations accruing hereunder from and after the date of such transfer and upon delivering to City an express assumption by the transferee of all of Landlord's obligations hereunder.

22.21 Non-Liability of City Officials, Employees and Agents

Notwithstanding anything to the contrary in this Lease, no elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to Landlord, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Landlord, its successors and assigns, or for any obligation of City under this Lease.

22.22 MacBride Principles - Northern Ireland

The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Lease. By signing this Lease, Landlord confirms that Landlord has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

22.23 Controller's Certification of Funds

The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the City's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by City under this Lease unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City, sufficient funds for the payment of Base Rent and any other payments required under this Lease are not appropriated, then City may terminate this Lease, without penalty, liability or expense of any kind to City, as of the last date on which sufficient funds are appropriated. City shall use its reasonable efforts to give Landlord reasonable advance notice of such termination.

22.24 Prevailing Wages and Working Conditions

Landlord agrees to comply with California Labor Code section 1720 et seq., in performing any work at the Premises under this Lease.

22.25 Non Discrimination in City Contracts and Benefits Ordinance

San Francisco Administrative Code Chapter 12B requirements are waived per Section 12B.5-1(c) and/or (d).

22.26 Tropical Hardwood and Virgin Redwood Ban

(a) Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, neither the University nor any of its contractors shall provide any items to City in the construction of any improvements made by the University for City under this Agreement or otherwise in the performance of this Lease which are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

(b) The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

(c) In the event the University fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, the University shall be liable for liquidated damages for each violation in an amount equal to the University's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. The University acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to Landlord from any contract with the City and County of San Francisco.

22.27 Bicycle Parking Facilities

Article 1.5, Section 155.3 of the San Francisco Planning Code (the "Planning Code") requires the provision of bicycle parking at City-leased buildings at no cost to the University. During the Term, City shall have the right to install and maintain, at its sole cost, all Class 1 Bicycle Parking Spaces (as defined in the Planning Code) and all Class 2 Bicycle Parking Spaces (as defined in the Planning Code) in the Real Property locations required under the Planning Code, if applicable.

22.28 Resource-Efficient City Buildings

The University acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of City buildings. To the extent necessary, the University hereby agrees that it shall comply with all applicable provisions of such code sections.

22.29 Counterparts

This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

22.30 Effective Date

The date on which this Lease shall become effective (the "Effective Date") is the date on which (a) City's Mayor and Board of Supervisors, in their sole and absolute discretion, adopt legislation approving this Lease in accordance with all applicable laws and (b) this Lease is duly executed by the parties hereto.

22.31 Certification by Landlord

By executing this Lease, the University certifies that neither the University nor any of its officers or members have been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event the University or any of its officers or members have been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, disbarment, discipline or prohibition may result in the termination or suspension of this Lease. The University acknowledges that this certification is a material term of this Lease.

22.32 Sunshine Ordinance

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

22.33 Conflicts of Interest

Through its execution of this Lease, the University acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The University further certifies that it has and a complete disclosure to the City of all facts bearing on any possible interests, direct or indirect, which the University believes any officer or employee of the City presently has or will have in this Lease or in the performance thereof or in any portion of the profits thereof. Willful failure by the University to make such disclosure, if any shall constitute grounds for the City's termination and cancellation of this Lease. If the University becomes aware of any violations during the Term of this Lease, University shall immediately notify City.

22.34 Notification of Limitations on Contributions

Through its execution of this Lease, the University acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City, whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the contract is approved. The University acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. The University further acknowledges that the prohibition on contributions applies to each member of the University's board of directors, and the University's chairperson, chief executive officer, chief financial officer and chief operating officer; any subcontractor listed in the contract; and any committee that is sponsored or controlled by the University. Additionally, the University acknowledges that the University must inform each of the persons described in the

preceding sentence of the prohibitions contained in Section 1.126. The University further agrees to provide to City the name of each person, entity or committee described above.

22.35 Preservative-Treated Wood Containing Arsenic

The University may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code, Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. The University may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude the University from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

22.36 Cooperative Drafting

This Lease has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Lease reviewed and revised by legal counsel. No party shall be considered the drafter of this Lease, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Lease.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, UNIVERSITY ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED LEGISLATION APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Landlord and City have executed this Lease as of the date first written above.

LANDLORD:

CALIFORNIA STATE UNIVERSITY,
Acting by and through, SAN FRANCISCO STATE
UNIVERSITY, a State of California political
subdivision

By: _____

Name: _____

Its: _____

Date: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____

Andrico Penick
Director of Property

Date: _____

RECOMMENDED:

Linda Gerull
Chief Information Officer, Executive Director
Department of Technology

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong, Deputy City Attorney

EXHIBIT A

SITE PLAN

San Francisco State University Site Plan

For information only
Not to scale

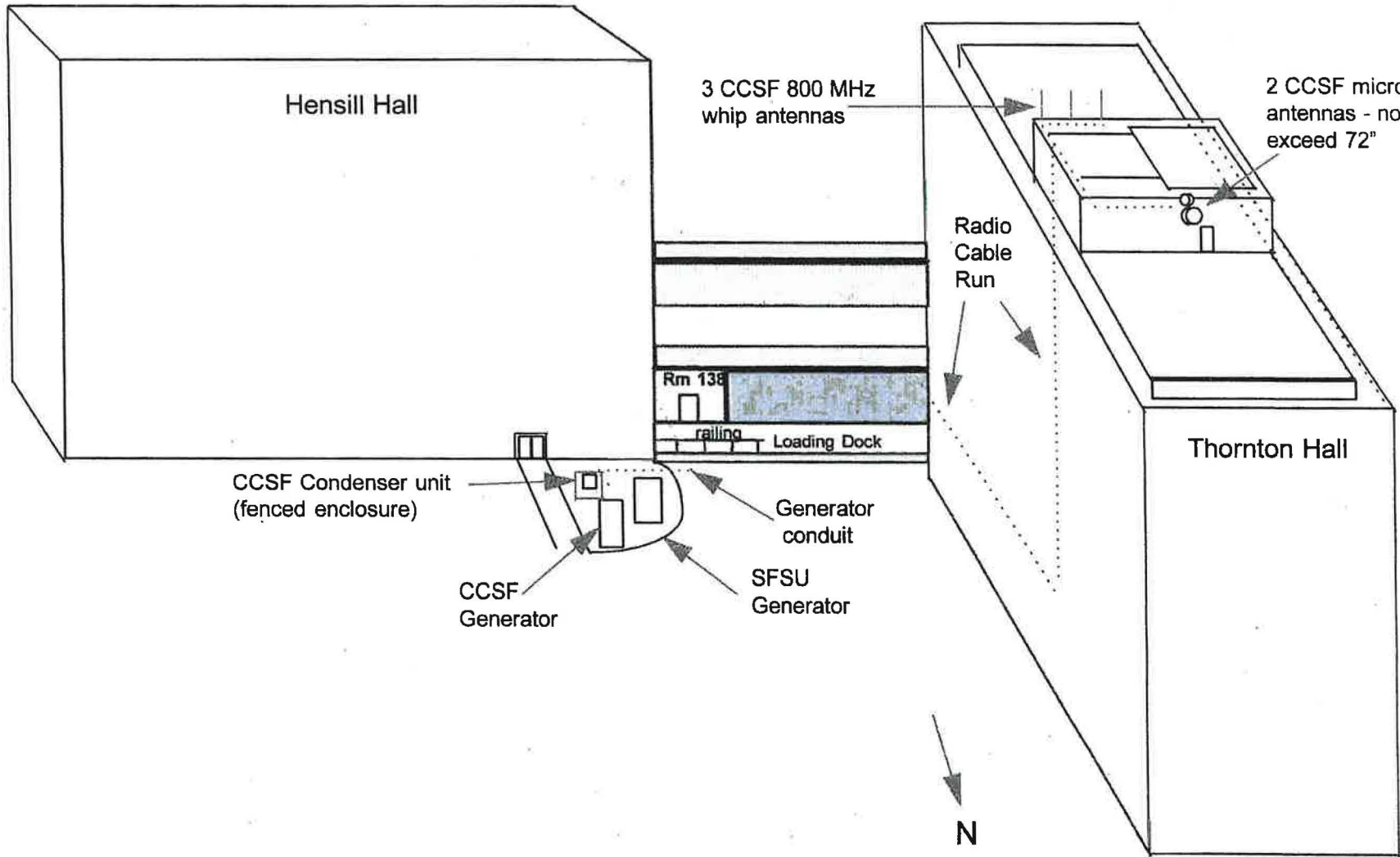


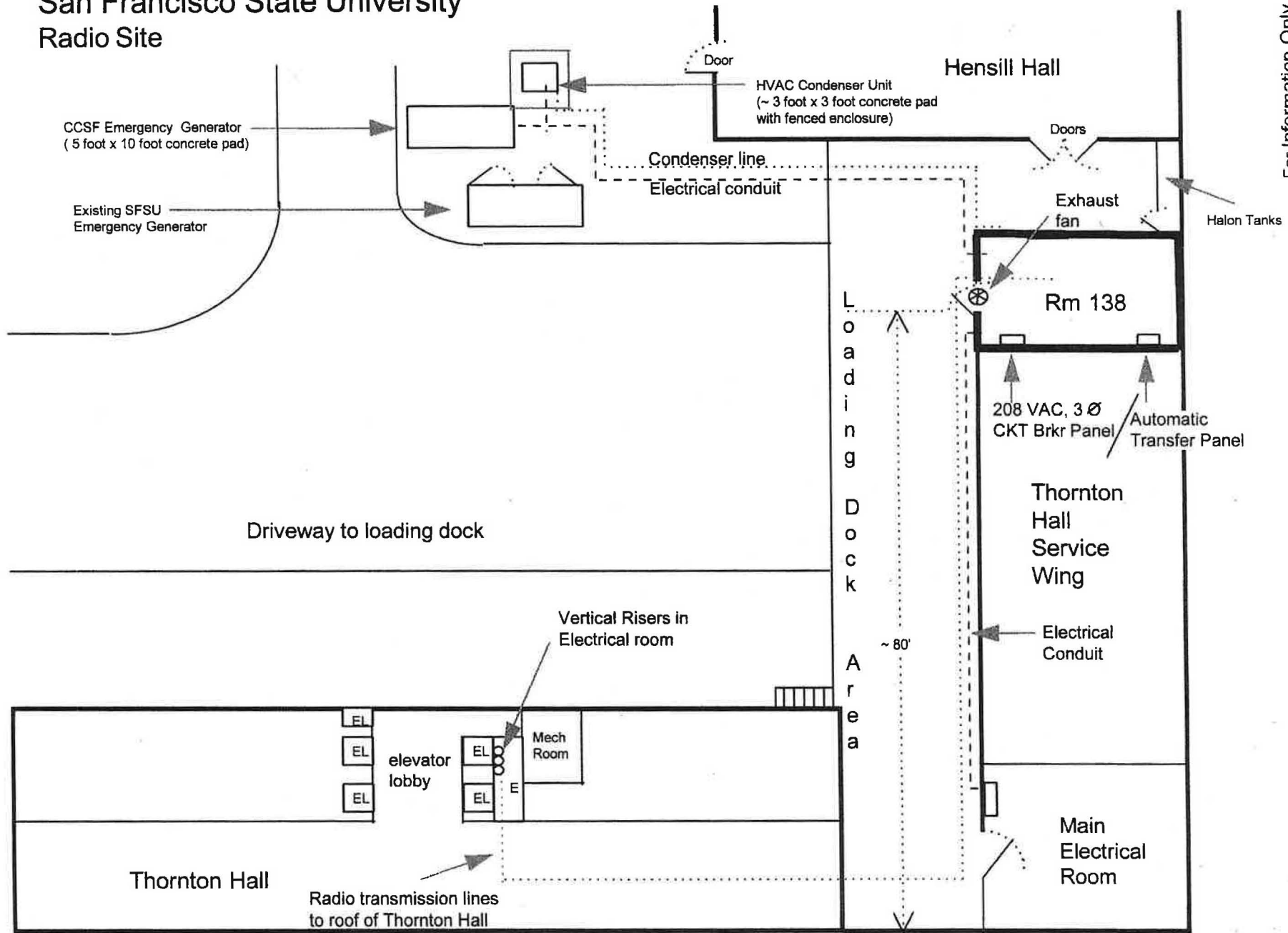
Exhibit A

SFSU

EXHIBIT B

RADIO SITE

San Francisco State University Radio Site



For Information Only
Not to scale

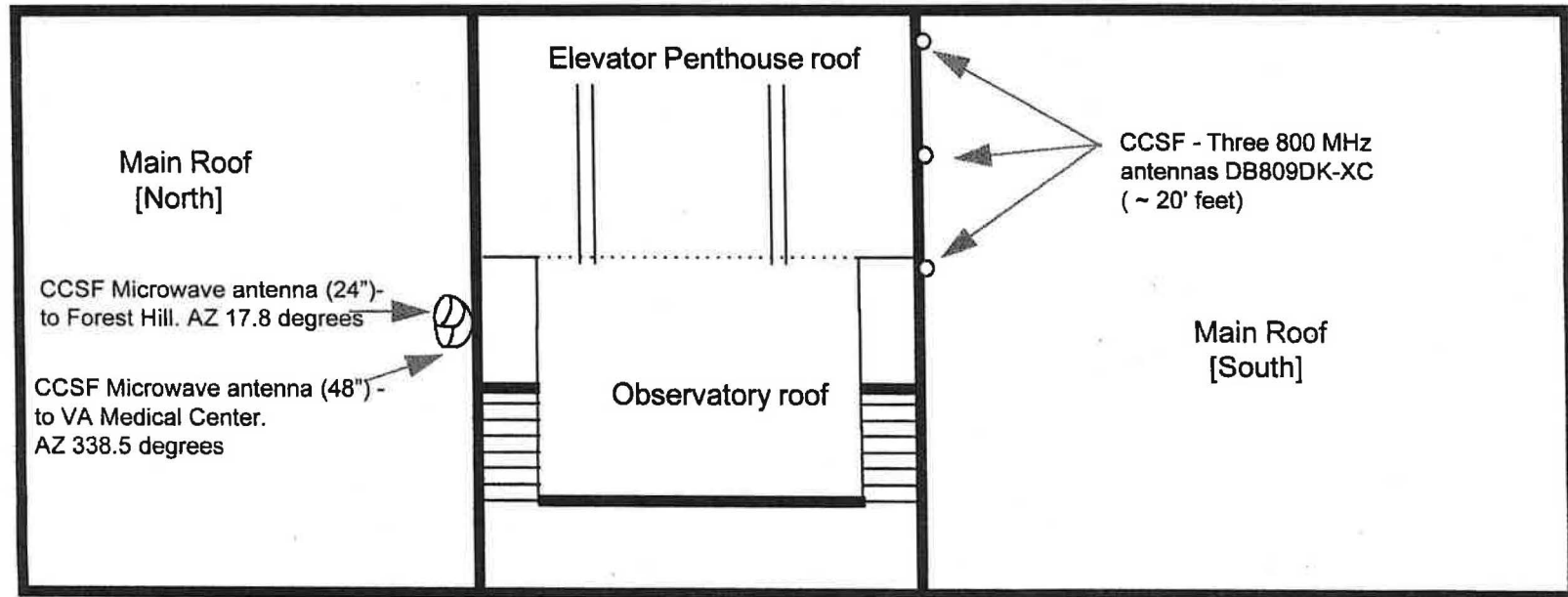
Exhibit B

SFSU

EXHIBIT C

THORNTON HALL – ROOFTOP PLAN

San Francisco State University Thornton Hall - 800 MHz Rooftop Plan



For Information Only
Not to scale

Exhibit C

SFSU

EXHIBIT D

HRC WAIVER

EXHIBIT D

HRC WAIVER

City and County of San Francisco



Willie Llewellyn Brown, Jr.
Mayor

Human Rights Commission

Contract Compliance
Dispute Resolution/Fair Housing
Minority/Women/Local Business Enterprises
Lesbian Gay Bisexual Transgender & HIV Discrimination

Martine S. Bamba
Executive Director

SOLE SOURCE AND EMERGENCY EXCEPTION & WAIVER REQUEST FORM

In addition to submitting the following information, the requesting contract awarding authority should attach additional page(s) explaining the basis upon which the request for exception is being made. (See back page for information on criteria upon which exception will be granted.)

Department: REAL ESTATE Contact Person: Jerry Romani
Address: 25 Van Ness Ave., #400, S.F., CA 94102 Phone Number: (415) 554-9876
Dept. Head Signature: [Signature] Date: 2/6/98
Date Exception request submitted: 2/6/98 Type of Contract: Lease
Date of Contract: Not yet dated Dollar Amount of Contract: \$270,000
Name of Contractor: San Francisco State Univ. Ethnicity: N.A. Sex: N.A.
Address of Contractor: 1520 Holloway Ave., San Francisco, CA 94132

EXCEPTION FOR PRIME CONTRACT (please check all that apply)

Sole Source: (non-compliance with Chapter 12B: nondiscrimination in benefits)
Sole Source: (is not an MBE or WBE pursuant to Chapter 12D)

Emergency: (Chapter 12B exception)
Emergency: (Chapter 12D exception)

Waived LBE preference for contracts over 5 million dollars:

NOTE: Employment requirements are still in force even if a waiver is granted.

Has waiver for this contract previously been granted or denied? If yes, please give HRC action and dates: NO

HRC ACTION	
12B Waiver Granted: <input checked="" type="checkbox"/>	12D Waiver Granted: <input type="checkbox"/>
12B Waiver Denied: <input type="checkbox"/>	12D Waiver Denied: <input type="checkbox"/>
Reason for Action: <u>(non-compliance with Chapter 12B.5-1(A)(1))</u>	
HRC Staff: <u>[Signature]</u> Date: <u>2/9/98</u>	
Signature of HRC Director: <u>[Signature]</u> Date: <u>2/9/98</u>	



HRC Form 1A



(415)252-2500 • 25 Van Ness Avenue, Ste. 800, San Francisco, CA 94102-6033 • FAX (415)431-5764 • TDD (415)252-2550
Recycled Paper

EXHIBIT E

USE AGREEMENT

EXHIBIT F
FREQUENCIES

Call Sign	Tx	Rx
WNVX 207	851.2500	806.2500
WNVX 207	851.4000	806.4000
WNVX 207	851.6125	806.6125
WNVX 207	852.0625	807.0625
WNVX 207	852.2125	807.2125
WNVX 207	852.6750	807.6750
WNVX 207	852.8625	807.8625
WNVX 207	853.0875	808.0875
WNVX 207	853.4375	808.4375
WNVX 207	853.7875	808.7875
WNKH 215	856.2375	811.2375
WNKH 215	857.2375	812.2375
WNVX 207	851.1250	806.1250
WNVX 207	851.8125	806.8125
WNVX 207	852.3875	807.3875
WNVX 207	853.2500	808.2500
WNVX 207	853.6500	808.6500
WNVX 207	853.8875	808.8875

EXHIBIT F

CITY EQUIPMENT FREQUENCIES LIST